

Mayers Flat Farm, LLC
Record Number: PLN-12651-SP
Assessor's Parcel Number: 211-372-006

Recommended 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 Zoning Administrator 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 California Environmental Quality Act (CEQA) Guidelines, make all of the required findings for approval of the Special Permits (3) and adopt the Resolution approving the Mayers Flat Farm, LLC, SpecialPermits (3) as recommended by staff subject to the recommended conditions.

Executive Summary: Mayers Flat Farm, LLC, seeks a Special Permit in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, Commercial Cannabis Land Use Ordinance (CCLUO) to expand an existing 8,750-square-foot (SF) cannabis cultivation operation with the proposed addition of 32,550 SF of outdoor light-deprivation cannabis cultivation greenhouse space, for a parcel total of 41,300 SF of cannabis cultivation at full buildout. The site is designated as Timberland (T) in the Humboldt County 2017 General Plan Update and zoned with a combined zoning of Agriculture Exclusive (AE) and Timber Production Zone (TPZ). Apart from an existing 840-SF nursery greenhouse, all cultivation would occur only within existing open areas zoned AE. A second Special Permit is required for the buffer reduction of the storage pond located within delineated wetland buffers, and a third Special Permit is required for ongoing maintenance and use of a point of diversion (discussed below).

Outdoor light-deprivation cultivation would take place in three separate areas in 11 light-deprivation greenhouses at full buildout (Site Plan revised 2/18/22). There are two existing greenhouses (4,200 SF and 4,550 SF). The applicant is proposing to add eight 3,500-SF greenhouses and one 4,550-SF greenhouse to house the total proposed mature cannabis canopy of 41,300 SF. The applicant is proposing to retain the existing 875-SF propagation greenhouse and to utilize 3,360 SF of proposed nursery space on one of the cultivation areas. The new total of 3,900 SF ancillary propagation would support the expanded operation. Two harvests are anticipated annually for a growing season that extends from April through October.

Drying would occur in an existing 1,920-SF storage structure. Two 200-SF shipping containers would be used for storing harvested cannabis and equipment. An existing residence unrelated to the cannabis operation is adjacent to the proposed nursery greenhouse. The applicant may hire up to three temporary employees to assist during peak operations. A new 800-SF processing building is proposed. Offsite processing in a licensed facility is proposed until all existing and proposed buildings and structures, as well as any historic or proposed grading, are permitted (**COA #A5-8**) and connected to renewable energy sources. As described in an Energy Generation and Consumption Plan (**Attachment 3b**), there is currently a small amount (460 watts) of supplemental lighting in the propagation greenhouse in use 5 months of the year (February through June). Propagation greenhouse lighting, water and air pumps, atomizer (for foliage feeding and pest/disease treatment), fans, power tools, surge protectors, dehumidifiers, and all electrical supplies and equipment, as well as all domestic power in the residence, is currently sourced from one 25-kilowatt (kW) diesel generator at this time. There is an additional 45-kW generator that is used for emergency back-up purposes; a permit to operate shall be obtained by the applicant, as needed, as a condition of approval (**COA #A9**). The use of generators in areas with a Land Use Designation of Timberland is prohibited for ancillary propagation facilities according to CCLUO 55.4.6.5.6. As a result, the applicant is proposing to add a photovoltaic solar system with 16 25-watt photovoltaic panels paired with 16 deep-cycle batteries to completely phase out generator use as a primary power supply. No cultivation expansion is allowed until the applicant can demonstrate that 100 percent of energy demand for the entire cultivation site will be met using renewable energy sources. In

the interim, the applicant shall furnish an energy budget detailing all monthly cultivation-related energy use, and an onsite renewable energy generation and storage capacity plan must be provided within 3 years of project approval and prior to any expansion as a condition of approval (**COA #A10**).

The operation will be secured behind a gated road and locked structures. The applicant plans to install security cameras in each of the cultivation areas that can be monitored from a central location in the residence and/or by smartphone in 2022. The project site consists of an open hill-slope meadow with a southwest facing aspect and 20 to 25 percent slopes, dominated by open grassland vegetation. All existing and proposed cultivation areas would occur on flats of less than 15 percent slope. Oaks and mixed-conifer forest surround the opening. No timber extraction has occurred or will be necessary for the cultivation operation.

A Prime Agricultural Soil Assessment of the grassland meadow was prepared by Dirty Business Soil in May 2018 that mapped 1 acre of prime agricultural soil across four different locations, including a portion of the existing cultivation area. In accordance with CCLUO Section 55.4.6.4.3, the cumulative area of any Cannabis Cultivation Site located in the four areas identified as having Prime Agricultural Soil shall not exceed 20 percent of the area of total Prime Agricultural Soil on the parcel as a condition of approval (**COA #A11**). The revised site plan dated 11/22/21 indicates the prime agricultural soil locations relative to the existing and proposed cultivation areas and shows that less than 20 percent of the prime agricultural soils will be used for cannabis cultivation. Where occurring in areas with Prime Agricultural Soil, cultivation shall only occur within the native soil. Removal of native soil and replacement with manufactured soil is prohibited.

Water Resources

The primary source of irrigation water for this project is rainwater stored in an existing 350,000-gallon capacity pond. Estimated annual water usage is 379,444 gallons (9.2 gallons/SF/year), with peak demand occurring in July and August when estimated demand is 53,500 gallons per month. Existing available water storage includes an approximately 350,000-gallon pond, three 3,000-gallon tanks, and one 1,100-gallon hard tank (364,100 gallons total existing). The rainwater catchment pond is modeled to intercept more than it can store (**Attachment 3d**), and the project would pump approximately 40,000 gallons of rainwater out of the pond to a proposed tank farm located on an existing flat adjacent to the proposed solar power system. Additional tank storage would increase total water storage for irrigation to 404,100 gallons—an amount that allows for full forbearance during the dry season (May 15 – October 15) of each year (**COA #A12**). An additional 22,000-gallon water bladder for fire safety protection is also proposed to be allocated from those relocated from elsewhere on the property. Special Permits are required for the buffer reduction of the storage pond located within delineated wetland buffers and for the ongoing maintenance of the registered point of diversion.

A point of diversion with a Small Irrigation Use Right (Registration H508360, Certificate H100577) was used for domestic water and the small irrigation use right will be voluntarily rescinded in April 2022 as detailed in the Revised 2022 Water and Irrigation Plan (**Attachment 3c**). In accordance with CCLUO Section 55.4.12.8(e), the pond was estimated to have been built in 2016 and was evaluated by a Professional Geologist with SHN in 2019 and found to be well built, well maintained, and located in a suitable geologic setting (**page 63 of Attachment 3e**). The inspection concluded that the pond had a low failure potential and a low potential for environmental impacts related to the geotechnical conditions at the site. The pond was cited and is detailed in a Grading, Drainage, and Erosion Control Plan prepared by Omsberg & Preston (engineers) in October 2018 (**page 57 of Attachment 3e**). The applicant shall agree to forebear from withdrawing water from all points of diversion for agricultural irrigation uses and to monitor and report domestic and irrigation water usage from all sources (i.e., well, pond, diversions, and storage tanks) as a condition of approval (**COA #A13 and A15.a**).

A Revised Final Lake and Streambed Alteration Agreement (LSAA 1600-2018-0695-R1) with the California Department of Fish and Wildlife (CDFW) was obtained by the applicant in October 2020 (**Attachment 3f**). The LSAA allows for installation of a minimum 18-inch culvert in Crossing #1 and on the road blocking drainage of a wetland and the associated measures designed to protect fish, wildlife, and plant

resources. The two retired water bladders in or adjacent to delineated wetlands below the pond are to be removed as a condition of approval upon recommendation following a site visit by the North Coast Regional Water Quality Control Board and CDFW in January 2019 and March of 2019 (**COA #A14**). Use of water bladder storage for irrigation purposes is prohibited by the CCLUO 55.4.12.8(f). A historic point of diversion from Elk Creek was noted in the LSAA, and this domestic diversion was retired once the groundwater well was installed. The removal of the point of diversion did not require any alteration to the bed, bank, or channel; however, a notification fee and remediation fee were submitted with the original LSAA notification in November 2018.

The parcel contains three Class III ephemeral watercourses that are tributaries to the Class II Elk Creek, which feeds into the South Fork Eel River. The Plot Plan shows these watercourses across the southern portion of the parcel and four distinct delineated wetland areas. All cultivation areas are outside of the 50-foot and 100-foot Streamside Management Area buffers, apart from the pond reservoir mentioned above. A Site Management Plan (SMP) was prepared by Timberland Resource Consultants in February 2020 (**Attachment 3g**) in accordance with the State Water Resources Control Board Cannabis Cultivation Policy (Order WQ 2019-0001-DWQ) as a Tier 1, Low Risk project; the plan was revised by ETA Humboldt in 2021 to include the third cultivation area and revise project details. Abiding by the recommended best practicable treatment and control measures and the attached Mitigation Report in the SMP prepared by Timberland Resource Consultants is made a condition of approval (**COA #A15**).

The applicant shall finalize any existing Onsite Wastewater Treatment System with the Division of Environmental Health (DEH) by completing the percolation test and septic design or any other reports deemed necessary by DEH (**COA #A16**).

Biological Resources

A Biological Assessment was prepared for the project following a single January 2020 field visit by a wildlife biologist with O'Brien Biological Consultants in accordance with CCLUO Mitigation Measure 3.4-1a (**Attachment 3h**). The wildlife biologist described the dominant forested vegetation as montane hardwood conifer and early- to mid-successional Douglas fir forest, which is a Sensitive Natural Community with a California Rare Plant Rank of S3. No trees are proposed to be removed by the project. There are mapped special-status plant species within 0.6 mile of the site (coast fawn lily; CRPR 2B.2), and sensitive natural communities could occur on site in areas where operations may occur. As a result, a botanical consultant prepared a protocol-level botanical survey report in October 2021 in accordance with CCLUO Mitigation Measure 3.4-3a, -3b, and -4 (**Attachment 3i**). In addition, owing to presence of potential wetlands, a wetland delineation was prepared by the same botanical consultant in January 2019 (**Attachment 3j**) in accordance with the CCLUO Mitigation Measure 3.4-5. The project area was floristically surveyed on April 15, May 28, and July 29, 2021, and all plants were identified to the taxonomic level necessary to determine whether they are special status. Although member species of documented Sensitive Natural Communities were identified (e.g., California oatgrass [*Danthonia californica*] and blue wildrye [*Elymus glaucus*]), their abundance was below membership rules for the community. These studies concluded the parcel contains coniferous forest, grasslands, and seasonal wetlands and that most of the proposed cultivation is on existing cultivation footprints or in previously graded areas. The additional grading necessary for the cultivation expansion was estimated by the experienced botanical consultant to impact approximately 17,630 SF (0.40 acre) of grassland not considered a Sensitive Natural Community. Delineated wetlands and associated wetland setbacks are shown on the revised 2021 Site Plan.

The nearest northern spotted owl (NSO) activity center is located approximately 0.48 mile east of the nearest cultivation area, with critical habitat located approximately 4.1 miles from the site. Lands south of the cultivation site and surrounding the parcel are heavily forested with appropriately aged coniferous forest; thus, there is high potential for NSO to occur on or near the property. The nearest mapped critical habitat for marbled murrelets is approximately 1.7 miles to the west, and there is likely no potential nesting habitat located on the parcel's assessment area. The Biological Assessment (**Attachment 3h**) concluded that there is a potential noise or light impact on NSO nesting habitat from the cannabis cultivation operations and recommended surveys be conducted to determine potential presence on the property

prior to development. Thus, the project is conditioned (**COA #A17**) to engage a qualified biologist to plan and conduct northern spotted owl surveys consistent with *Section 9: Surveys for Disturbance Only Projects of the Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls* (U.S. Fish and Wildlife Service 2012) and in accordance with CCLUO Mitigation Measure 3.4-1e requiring surveys wherever ground-disturbing activities are adjacent or within suitable nesting, roosting, or foraging habitat. Further, if any NSO activity center is found within a 0.7-mile buffer around pre-existing or proposed expanded cultivation sites, a qualified biologist familiar with the life history of the NSO shall conduct a Disturbance and Habitat Modification Assessment to determine the presence of the species and whether the cultivation site can operate or have its operation modified to avoid take of the species. If it is determined that take of the species could occur, the cultivation site will be required to participate in the Retirement, Remediation, and Relocation provisions of the proposed ordinance to relocate the cannabis cultivation to outside of the NSO activity area in accordance with the CCLUO 55.4.12.10 Performance Standard.

Additional recommendations for the protection of biological resources are included as standard conditions of all projects. They include, but are not limited to, housing generators inside insulated enclosures to muffle noise and adhere to noise thresholds of the CCLUO (≤ 50 decibels of maximum noise exposure at 100 feet from noise source or to the edge of potential habitat), conducting nesting bird surveys prior to vegetation removal or habitat alteration planned within the nesting season, and implementing invasive plant species controls. Furthermore, the project is conditioned to ensure refuse is contained in wildlife-proof storage and refrain from using anticoagulant rodenticides to further protect wildlife (**Attachment 1.B.1-8**).

Tribal Cultural Resource Coordination

The project was referred to the Northwest Information Center, and the Bear River Band in April 2018. A Cultural Resources Investigation was prepared in May 2018, and an Addendum Report prepared in December 2020, by Mark Arsenault, MA, RPA, principal investigator of Arsenault & Associates in Sacramento. Per the report, an outreach email was sent to the Bear River Band of the Rohnerville Rancheria and "no relevant or important response to the outreach was received." The report concluded that the proposed project will not result in any adverse changes to historical or archaeological resources, recommended Inadvertent Discoveries Protocol, and noted that if engineering plans change or additional ground disturbing activities were necessary, Mark Arsenault should be contacted for further information. Subsequently, he was contacted to perform a secondary survey of the expanded project area to the north to provide cultural resources clearance for an additional impact area associated with the proposed 3,900-SF propagation greenhouse. The secondary survey was completed on November 26, 2020, and did not identify any cultural resources within the additional impact area or 600-foot buffer. Additionally, the report concluded that the character of the secondary study area was consistent with that described in the original report. Ongoing conditions of approval are incorporated regarding the Inadvertent Discoveries Protocol to protect cultural resources.

Access

Access to the site is via a private driveway that does not serve other neighbors which is accessed from Dyerville Loop Road, a County maintained road. Dyerville Loop Road is a paved, Category 4, County-maintained roadway. A self-certified Road Evaluation Report (Form A.) for the 1.0-mile access route was prepared by Antonio Petrushevski, and a photo-documented report was prepared by ETA Humboldt in January 2021 (**Attachment 3k**) that indicates the roadway can accommodate increased traffic given the 17 documented turnouts, the rocked surface, and the 16-to-20-foot road widths. Public Works, Land Use Division, conditionally approved the project on 7/21/21, and their recommended improvements have been made conditions of approval (**COA#A18**).

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 cannabis 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 Eel Planning Watershed, which under Resolution 18-43 is limited to 730 permits

and 251 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 294 cultivation permits and the total approved acres would be 80.79 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 Environmental Impact Report that was adopted for the Commercial Cannabis Land Use Ordinance and has prepared an addendum to this document for consideration by the Zoning Administrator (see Attachment 2 for more information).

RECOMMENDATION: Staff recommends that the Zoning Administrator describe the application as a part of the consent agenda, survey the audience to see if any person would like to discuss the application and, if no one requests discussion, make all the required findings based on the evidence in the record and approve the application subject to the recommended conditions.

ALTERNATIVES: Several alternatives may be considered: 1) The Zoning Administrator could elect not to hear this item and put the decision making in front of the Planning Commission. Any decision to place this matter before the Planning Commission must be done before opening the public hearing on this project; 2) The Zoning Administrator could elect to add or delete conditions of approval; 3) The Zoning Administrator could deny approval of the requested permits if you are unable to make all of the required findings. Planning Division staff is confident that the required findings can be made based on the submitted evidence and subject to the recommended conditions of approval. Consequently, planning staff does not recommend further consideration of these alternatives.