



COUNTY OF HUMBOLDT

For the meeting of: 5/15/2025

File #: 25-635

To: Planning Commission

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

Kurnishon, LCC, Conditional Use Permit and Special Permit
Assessor Parcel Numbers (APN) 208-221-006-000
Record No.: PLN-12030-CUP
Mad River area

A Conditional Use Permit for 21,120 square feet (SF) of existing outdoor commercial cannabis cultivation. Light deprivation techniques are utilized to achieve two harvests annually. Water for irrigation will be provided by an existing well. The expected annual water use is 193,000 gallons (8.97 gallons/square foot). There is a total of 55,500 gallons of available water storage currently on site. Processing such as drying and curing will occur onsite in an existing 1,100 SF structure. Energy for the project will be supplied by three (3) 7kW generators which also serve power for domestic purposes. The project is conditioned to transition to renewable energy by January 1, 2026. The applicant is also seeking a Special Permit for work within the Streamside Management Area.

RECOMMENDATION(S):

That the Planning Commission:

1. Adopt the resolution (Resolution 25-___), (Attachment 1) which does the following:
 - a. Finds the Planning Commission has considered the Addendum to the Environmental Impact Report for the Commercial Cannabis Land Use Ordinance that was prepared for the Kurnishon, LLC project; and
 - b. Finds the proposed project complies with the General Plan and Zoning Ordinance; and
 - c. Approves the Conditional Use Permit and Special Permit as recommended by staff, subject to the conditions of approval (Attachment 1A).

DISCUSSION:

Project Location: The project is located in the Mad River area, on the west side of River Road,

approximately 4.8 miles northwest from the intersection of River Road and Ridge Road, on the property known to be in Section 28 of Township 02 North, Range 05 East, Humboldt Base & Meridian.

Present General Plan Land Use Designation: Agricultural Grazing (AG) Density: 20-160 acres per dwelling unit, Slope Stability: Moderate Instability (2) and High instability (3).

Present Zoning: Forestry Recreation with 40-Acre Minimum Building Site Area (FR-B-5(40)).

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.

Monitoring Required:

Annual Compliance Monitoring.

Executive Summary:

A Conditional Use Permit to allow the continued cultivation of 21,120 square feet (SF) of outdoor cannabis 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). Cultivation takes place in two locations within five (5) greenhouses: Greenhouses #1 and #2 are 120'x32' (3,840 SF each) totaling 7,680 SF located in the southeastern corner of the parcel, and Greenhouses #3, #4, and #5 are 140'x32' (4,480 SF each) totaling 13,440 SF located in the southwestern area of the property. Ancillary nursery area totals 2,100 square feet within two (2) locations: a 1,500 square foot nursery structure and 600 square foot multi-use building. Up to two (2) harvests are anticipated annually.

Processing activities including drying and curing will occur onsite in the existing 1,100 SF (25'x44') multi-use building. The applicant will seek out a licensed third-party processor until a proper structure can be permitted onsite. Power is provided by three (3) 7 kilowatt (KW) generators that serve as a power source for both domestic and commercial use. A maximum of six (6) employees may be onsite during peak operations.

The proposed project also includes a Special Permit for development within the Streamside Management Area for use and maintenance of a stream crossing, the removal of an onstream pond, and road upgrades. An onstream impoundment exists onsite on a Class III stream which was excavated/modified with unapproved material placed in the channel to construct a dam wall approximately 25-foot wide by 4 foot tall. The project as proposed includes the restoration of the stream channel which includes the removal of all materials currently placed in the stream, the stream channel will be reconfigured to match the nearest undisturbed section of the channel, and the

channel will be stabilized with rock, with the bank being stabilized with straw and native vegetation seed.

Water Resources:

Estimated annual water usage is 193,000 gallons (9.14gal/sf) Water for irrigation is provided by an existing permitted groundwater well. The well is registered with the California Department of Water Resources (DWR) and local Department of Environmental Health (DEH) (Permit No. 17/18-0014) (Attachment 4E). Water storage is currently 58,650 gallons. The applicant shall provide an accurate site plan and operations plan that cohere in water storage accuracy (**Condition of Approval A.9**).

A Hydrologic Assessment was performed on the existing well performed by Lindberg Geologic Consulting dated November 15, 2022 that looked at the 150-foot deep well and its potential impacts to other wells and surface waters within 1,000 feet (72 acres) (Attachment 4D). The report was prepared after a California-Certified Engineering Geologist visited the site on August 23, 2022 to observe the subject well and local site conditions. Based on the depth of the well, the depth of the bentonite-sealed casing (140 feet), and consideration of the stratigraphy and underlying geologic structure, plus the distances (horizontally and vertically) from the nearest surface waters the report concludes that the 140-foot bentonite seal, is sufficient to preclude the potential for hydraulic connectivity with surface waters. Furthermore “the water source from which this well draws appears to be s confined subsurface aquifer not demonstrably connected to any surface waters or unconfined, near-surface aquifer(s)”. The report concludes that the well located on site has a “low likelihood of being hydrologically connected to nearby surface waters or wells in any manner that might significantly impact or affect adjacent wells, surface waters, or wetlands in the vicinity.”

The well is located approximately 700 feet west of the nearest stream and 20 feet lower in elevation based on measurements from the Humboldt County WebGIS. The Well Completion Report states the well is 150 feet deep and drilled through sandstone and shale. Depth to first water is recorded at 60 feet, a bentonite seal is installed from the surface to 140 feet in depth of the well. According to the Hydrologic Isolation report, the well is estimated to yield 1,440 gallons per day, which should produce sufficient water for irrigation. Based on the review of the given evidence, including the Hydrologic Isolation report and Well Creation Report conducted by Lindberg Geologic Consulting August 23, 2022, Planning staff determined the well is likely to be hydrologically isolated from adjacent surface waters and does not require additional water rights from the State Water Resources Control Board and is not subject to forbearance or water storage requirements.

The site has two registered points of diversion which were historically utilized to provide irrigation water to the existing cultivation activities. The cultivation activities, as proposed, are prohibited from utilizing a surface water diversion in conformance with the CCLUO and is conditioned to utilize water meters to track the source of irrigation for existing and new cultivation to show conformance with this requirement. Conditions of approval require the applicant to monitor water use from the well and water storage tanks annually and to provide a well drawdown test to demonstrate there is sufficient

water available to meet operational needs, or to develop additional water storage (**Conditions of Approval A.9 and A.13**).

The applicants Site Plan depicts two water bodies, one Class II and one Class III water course that are tributaries to the Mad River, located in the central and southern portions of the subject property. As depicted, all cultivation activities proposed adhere to the 100-foot (Class II) and 50-foot (Class III) setback requirements. Remediation work is proposed within the Class III stream channel to remove an instream pond and recontour the bank to a consistency with the bank sections adjacent to the current pond.

A Site Management Plan (SMP) (WDID# 1_12CC401759) was prepared by Green Road Consulting for the subject site in March 2019 (Attachment 4C) in compliance with the State Water Resources Control Board (SWRCB) Order WQ 2017-0023-DWQ. As noted in the SMP, the report describes and addresses the required elements and standard conditions established in the Order to protect water quality from cannabis cultivation and related activities. It is concluded in the SMP that the site does not fully meet all twelve (12) of the standard conditions. Included in the SMP is a prioritized list of the recommended treatments and actions to be implemented to meet the requirements of the Order. The project is conditioned to require the applicant to implement all recommendations contained in the SMP (**Condition of Approval A.16**).

The California Department of Fish and Wildlife issued a Streambed Alteration Agreement (LSAA, 160-2018-0754-0000-R1) June 12, 2020 (Attachment 4.L). The LSAA is set to expire May 5, 2025, however, the applicant has submitted a request for an extension and amendment, which are currently under review with CDFW. The project is conditioned such that the applicant complies with the extension and amendment specifications of the LSAA (**Condition of Approval A22**). The LSAA was for a water diversion from an unnamed tributary to the Mad River for domestic use, decommissioning an onstream pond, restoring a stream and associated Streamside Management Area (SMA), and upgrading three failing and undersized stream crossings. As part of the stream restoration project, the permittee was required to decommission the pond, restore the Class III watercourse, and revegetate the SMA to stabilize and restore the area to its pre-disturbance condition. CDFW conducted a site inspection on June 12, 2024 on the subject parcel to observe the current and remnants of historic cultivation activities. CDFW provided comment on the project August 1, 2024. CDFW observed that the onstream pond had been decommissioned, however, the watercourse was buried in a 120 ft culvert instead of being restored and the SMA had not been revegetated resulting in sediment discharge to Waters of the State, which is out of compliance with the LSAA, the Stream Restoration and Revegetation Plan, and is a violation of Fish and Game Code (FGC) 1602. Additionally, water diversion infrastructure onsite was determined to be out of compliance with the LSAA, and the applicant has not complied with all required reporting measures in the LSAA.

The following requests from CDFW have been incorporated into the conditions of approval, with dates amended based on timing of project approval:

1. The applicant shall (**Condition of Approval A.12**):

- a. Remove all water diversion infrastructure from the stream channel and spring site by August 31, 2025.
- b. Remove and relocate all water storage facilities located within the SMA by October 1, 2025.
- c. Submit and implement an interim erosion control plan to stabilize all exposed soil within the pond restoration area to mitigate the existing threats sediment delivery into Waters of the State by October 1, 2024.
- d. Submit a major amendment to the LSAA to include all work required to remove the culvert and restore the stream channel at the decommissioned pond site by May 31, 2024.
- e. Complete all restoration work associated with the stream restoration project by October 1, 2025.
- f. Within two (2) weeks of project approval, the applicant shall remove the following from the Streamside Management Area (coordinates of each specified in the Conditions of Approval, **Condition of Approval A.7**):
 - i. Travel trailer
 - ii. Equipment storage
 - iii. Water storage tanks and water pump
 - iv. Chicken coop
 - v. Debris

Given the surmised underestimate of annual water requirements, CDFW also requested a certified hydrologist assess the potential long-term yield of the well with the proposed usage and verify adequate water storage, of the applicant is to increase water storage by 100,000 gallons (**Condition of Approval A.12**).

The Division of Environmental resources commented on the project April 30, 2019. They stated that the well proposed to serve the project was improperly constructed and has not been approved by Environmental Health. Prior to the use of the well, the applicant must install a proper surface sanitary seal in accordance with the California Well Standards and approved by Environmental Health (**Condition of Approval A.23**). The applicant submitted an Onsite Wastewater Treatment System Permit

Public Trust Resources:

The project is in the Mad River Planning Watersheds. The project well is approximately 3,600 feet southwest of the Mad River. The nearest ephemeral tributary of Pilot Creek is more than 3,800 feet east of the well and is at an elevation of approximately 3,560 feet. The well site elevation is 3,270 feet and the elevation of the proximal ephemeral tributary of the Mad River is at an approximate elevation of 3,200 feet. The elevation of the Mad River at its nearest location is approximately 2,240 feet. The distance and elevation differences between the well and these resources is sufficient to ensure there is no direct connection to these watercourses. The well contributes approximately 193,000 gallons to the project's water budget. There is currently approximately 55,500 gallons and the project is conditioned to add an additional 100,000 gallons of water storage or provide a drawdown test establishing a sufficient sustainable yield (**Condition of Approval 13**). The use of the stored water for irrigation purposes will not cause any significant adverse impact to the Mad River or otherwise substantially impair the public trust uses or values related to commerce, navigation, fisheries, public access, preservation of trust lands in their natural state, or water-related recreation and other activities.

Biological Resources:

A Biological Resource Assessment was completed February 2019 following a habitat assessment by TransTerra Consulting on January 29, 2019. The assessment evaluated listed species and species of special concern (SOC). The study area was scanned for wildlife sign including tracks, scat, tree habitat (cavities, nests scrapes or accumulated vegetation) as well as special habitat types and habitats associated with rare plant species. The observations were concentrated around cultivation sites, roads and watercourses. Per review of the California Natural Diversity Database (CNDDB) data, there are two mapped sensitive species that have the potential of occurring onsite including Oregon goldthread (*Coptis Laciniata*) and Bolander's Catchfly (*Silene bolanderi*). Critical Habitat for the Northern Spotted Owl (NSO) (*Strix occidentalis caurina*) occurs 0.25 miles from the project site. The nearest Northern Spotted Owl (NSO) activity center is located approximately 0.4 miles from the nearest cultivation area, with the nearest NSO sighting located approximately 0.53 miles away. Conditions of approval require the applicant to implement light and noise attenuation measures, ensure refuse is contained in wildlife proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife.

Energy:

Electricity is sourced from three (3) 7-kilowatt generators. The generators are used for an estimated 12 hours a day for domestic purposes. During the cultivation season (March through November) the applicant estimates the generators will be ran for up to 4 hours a day to power cultivation related equipment including, ancillary nursery, fans, and drying equipment. The applicant has provided plans prepared by Peterson Design Group (Attachment 4.J) to add a photovoltaic solar system to provide power for commercial cultivation and support infrastructure. The project is conditioned to transition to 100 percent on-site renewable energy by January 1, 2026 (**Conditions of Approval A.21**).

Access:

Access to the 40 acre project parcel is by way of Sayler Mad River Road. A Road Evaluation Report was submitted with photographic evidence by the applicant. The entire Road segment is developed to a usable standard; however, several repairs are needed. The applicant shall install rolling dips and water bars on the main road to prevent sediment sediments from entering the Class III drainage and other conditions covered in the Water Resources section.

The Six Rivers National Forest submitted comments recommending denial of the project due cannabis being illegal under federal law and the property utilized USFS roads for access. This is a standard comment from Six Rivers National Forest and the Forest Service did not identify any concerns specific to this proposed project.

Geologic Suitability:

The project parcel is mapped in the County GIS as Moderate instability. The location of existing cultivation is mapped as primarily 15% slope or less with one greenhouse mapped in the 30% slope or less area. Site Plans prepared by Green Road Consulting depicts the cultivation areas as all occurring on slopes below 15%. No new structures are proposed that would expose people to risk of life from earthquakes.

Timber Conversion:

A Timberland Conversion Evaluation report was prepared by Blair Forestry Consulting on October 11, 2018, (Attachment 4.F) for the timber conversion activities that have occurred onsite in three locations referred to as conversion areas 1, 2, and 3 with minor conversions occurring prior to 2014 and major conversion activities occurring after the established CMMLUO baseline date. The total estimated conversion area equals 2.97 acres of timber conversion with approximately 1.79 acres of that amount occurring after the CMMLUO baseline. An amended Timberland Conversion Evaluation Report prepared by Blair Forestry, LLC was submitted to the Humboldt County Planning and Building department in April 2022, to correct the estimated size of timber conversion and to provide a restocking plan for the amended acreage provided in the amendment (Attachment 4.G). According to the amendment, due to the lack of areal imagery available in 2018, the original conversion amounts were miscalculated, with the newly available areal imagery the estimated amount of timber conversion is approximately 2.14 acres which consequently brings the total conversion area post baseline to 1.24 acres. The restocking plan includes thorough guidelines for restocking areas (4 locations), site preparation, seedling type, care, and planting instructions as well as requirements to carry out the monitoring for two years after planting and a 5-year report of stocking certification prepared by a Registered Professional Forester. In total 202 trees will be planted across four conversion sites totaling 1.24 acres. The project is conditioned to require the Applicant to implement the restocking plan in accordance with the guidelines and requirements as dictated (Conditions of Approval A.21). No additional timber conversion is proposed by this project.

Security and Safety:

Security measures for the project sites include gated access off West River Road, security lighting, storage locations that will be locked while not in use, and game cameras which will be utilized to monitor gated access points. The operation also utilizes video surveillance.

Tribal Consultation:

The project is within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria and the Wiyot tribe. The project was referred to the Northwest Information Center at Sonoma State and Bear River. A Cultural Resources Investigation dated August 2019 was performed by Archaeological Research and Supply Company. The investigation final report was reviewed by the Bear River Tribal Historic Preservation Office which recommended the standard inadvertent discovery protocol which has been incorporated into the project as a condition of approval (**Informational Notes 3**).

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 located in the Mad River Watershed, which under Resolution 18-43 is limited to 334 permits and 115 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 87 permits and the total approved acres would be 32.97 acres of cultivation.

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 5)

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Planning Commission could elect to add or delete other 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.
2. 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.

ATTACHMENTS:

1. Resolution
 - A. Conditions of Approval

- B. Cultivation Operations Plan
 - C. Site Plan
- 2. Location Maps
- 3. CEQA Addendum
- 4. Applicant's Evidence in Support of the Required Findings
 - A. Cultivation and Operations Plan Addendum
 - B. Notice of Applicability
 - C. Site Management Plan
 - D. Well Connectivity Report
 - E. Well Documents
 - F. OWTS application
 - G. Timber Conversion Report
 - H. Timber Restocking Plan
 - I. Road Evaluation
 - J. Solar Plan Set
 - K. Biological Resource Assessment
 - L. Lake or Streambed Alteration Agreement
- 5. Referral Agency Comments and Recommendations
 - A. Building Inspection Division Response
 - B. CalFire Response
 - C. United States Forest Service Response
 - D. California Department of Fish and Wildlife
 - E. Division of Environmental Health
- 6. Watershed Map

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