

**Recommended Planning Commission Action**

1. Describe the application as part of the consent agenda;
2. Survey the audience for any member of the public that wishes to discuss the application;
- 3.. If no one requests discussion, make the following motion to approve this project as part of the consent agenda:

*1) 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; 2) make all of the required findings for approval of the Special Permit; 3) and approve the The Vista 36, LLC Special Permit as recommended by staff subject to the recommended conditions.*

**Executive Summary:** A Special Permit for 27,000 square feet (SF) of new and existing mixed light cultivation, 5,588 SF of new outdoor cultivation, and 3,200 SF of nursery space. Pre-existing cultivation on the site was 6,000 square feet of mixed-light cultivation. The total cultivation area will be 32,588 SF. The project also includes relocation and remediation of a previously existing cultivation area which was approximately 6,000 square feet on another portion of the legal parcel. The applicant hopes to achieve three (3) harvest cycles annually. Water will be sourced from two (2) wells which were determined to be not hydrologically connected and from a rooftop rainwater catchment system. Four (4) 50,000 gallon water tanks and five (5) 5,000 gallon water tanks are proposed onsite, totaling 225,000 gallons of water storage. An additional 5,000 gallon water tank is designated for emergency fire suppression. The estimated water needed annually for irrigation is approximately 515,468 gallons (14.4 gal/sf/yr on average, including the nursery space usage). Drying, trimming, and processing will occur offsite on a neighboring parcel, which has a project from the same applicant, or at a licensed third-party facility. Operations will utilize up to two (2) full time employees and up to two (2) seasonal employees, totaling a maximum of four (4) employees on site. Portable restrooms will be available onsite for employees. Power will be sourced by PG&E and there is a Honda 2200-Watt Super Quiet Inverter generator available for emergency use only.

There will be 27,000 SF of mixed light cultivation in which the applicant hopes to achieve up to three (3) harvests annually. There will be 5,588 SF of outdoor cultivation in two fields which will have one (1) harvest cycle annually. Ancillary propagation is proposed to occur within four (4) 800 SF greenhouses, for a total of 3,200 SF. The applicant shall obtain a permit or acquire agricultural exemptions for all buildings with a nexus to cannabis, including but not limited to four (4) propagation greenhouses and one (1) 270' by 100' mixed light cultivation area.

The project includes remediation of approximately 6,000 square feet of previously existing cultivation area on Assessor's Parcel Number (APN) 316-312-008 which will be relocated to APN 316-313-003. This amount is included in the 32,588 SF total cultivation area. APN 316-312-008 and APN 316-313-003 together comprise one legal parcel. A remediation plan was prepared by Naiad Biological Consulting on November 2<sup>nd</sup>, 2020, summarizing current conditions and providing recommendations for remediation. The plan does not require re-seeding of the remediation area because the site appears stable and is presently well vegetated.

The site is in an area of High Instability for seismic safety, but there will be no commercial structures on the proposed development. The development will take place on a pre-existing graded flat, which, according to the drainage map prepared by Trinity Valley Consulting Engineers, has slopes between 0 and 15%. The drainage map also determined that the proposed cultivation is all located in the Lower Trinity watershed, rather than the neighboring Redwood Creek impacted watershed. The Lower Trinity planning watershed is not a cannabis impacted watershed, but it is limited to 169 permits and 58 acres

of cultivation maximum, the present quantities at time of writing are estimated to be 60 permits and 23.1 acres.

The cultivation is proposed to be within 300 square feet of an existing residence. The property owner of that residence has submitted a letter which provides consent to waive the setback restriction.

There is a portable toilet onsite, as well as access to two additional portable restrooms on APN 316-313-007 for employee use. The applicant shall annually provide an invoice or equivalent documentation to the Planning Department to confirm the continual use of portable toilets serving the needs of the cultivation staff.

The project is within the jurisdiction of Blue Lake Union School District. A request for comment was sent to them and no response has been received. There do not appear to be any schools or school bus stops within 600 feet of the project.

### **Water Resources**

The project's primary water sources are two wells and a rooftop rainwater collection system. One well is onsite on APN 316-313-003. The other is on APN 316-313-007 and has a deed of easement permitting water use from this well by APN 316-313-003. Both wells have had hydrologic studies prepared by Lindberg Geologic Consulting. According to the studies, these wells are unlikely to be connected to any nearby surface waters, such as Willow Creek, so we are treating them as non-diversionary. The rainwater catchment system is located on the private residence on APN 316-313-007, owned by the same property owner. Additional wells are identified in the cultivation and operations plan, but no studies of these wells have been submitted. They are assumed to be diversionary water sources, so the project is conditioned to restrict the use of these wells so that they are not utilized for any cannabis-related purposes (COA B.4). If evidence suggesting that these wells are non-diversionary is submitted, the Planning Department will review whether each additional well can be added to the project. Water from these sources will be stored in four (4) 50,000 gallon water tanks and five (5) 5,000 gallon water tanks onsite, for a total of 225,000 gallons of water storage. An additional 5,000 gallon water tank is designated for emergency fire suppression. The water needed annually for irrigation is estimated to be approximately 515,468 gallons (14.4 gal/sf/yr on average, including the nursery space usage). Employee drinking water will be brought from offsite periodically and provided in designated shaded break areas. The property owner prepared a Streambed Alteration Agreement to permit water diversion from off site at two encroachments to Willow Creek. These encroachments can only be utilized for domestic uses. No water sourced from diversions will be used for irrigation.

Correspondence with the California Fish and Wildlife Department (CDFW) indicated that the applicant had informed them that all their wells go dry in the summer. Discussion with the applicant regarding this statement determined that only one well went dry in the summer, and that is one of the offsite wells that would not be approved for use on this project. CDFW recommended that the applicant increase their water storage for all their proposed projects and their approved project on a nearby parcel such that any water use for irrigation between April 15<sup>th</sup> and November 15<sup>th</sup> may be supported exclusively by storage on site. This project is not conditioned to align with this recommendation, because the basis of the recommendation does not apply, however the applicant does intend to reassess their water storage needs and phase the project's cultivation area based on water tank availability.

Willow Creek passes through the subject parcel. According to the site management plan (SMP) prepared by Natural Resources Management Corporation, Willow Creek is a Class I watercourse. The streamside management area for this watercourse is 150 feet from the edge of the water. All development takes place over 350 feet from the water's edge. According to the site management plan, this portion of Willow Creek was historically converted into an on-stream pond to impound water for domestic and irrigation use. During the winter of 2016 & 2017, the north side of the pond's impoundment failed and has degraded to be the same elevation as the natural channel. The landowner will work to implement immediate and permanent repairs to protect the surrounding environment and restore the stream to its pre-damage condition. The project site is on a ridge 100 feet of elevation above Willow

Creek, outside of the WebGIS demarcated National Wetlands Inventory and Troy Leopardo did not observe any wetlands during his biological reconnaissance survey in March 2020, so it is unlikely that any wetland habitats have potential to be impacted by the proposed project. A protocol-level wetland determination was not performed.

The applicant is not currently cultivating on the project site and is currently enrolled in the State Water Resources Control Board's (SWRCB) (Order WQ 2019-0001-DWQ) General Waste Discharge Requirements and Waiver of Waste Discharge Requirements. The project has prepared a site management plan outlining the measures required to meet the standards of the SWRCB's Order. The applicant shall adhere to the measures and recommendations within the SMP.

### **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 permits and acres which may be approved in each of the County's Planning Watersheds. The project site is located in the Lower Trinity Planning 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 permits and the total approved acres would be 25.84 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 Medical Marijuana Land Use Ordinance and has prepared an addendum to this document for consideration by the Planning Commission (See Attachment 2 for more information).

### **Fire Safety**

The project is located within the State Responsibility Area in an area designated as High Fire Severity, The applicant has designated a 5,000 gallon water tank for fire suppression.

### **Biological Resources**

A biological reconnaissance survey was conducted in the study area in March 2020 by Troy Leopardo, a qualified biologist. This survey was used to inform the Biological Assessment (BA) prepared by Leopardo Wildlife Associates dated April 17<sup>th</sup>, 2020.

The project site is near mapped range for certain rare or endangered plant species listed in the California Natural Diversity Database (CNDDDB), but the Biological Assessment concluded that, due to the pre-disturbed nature of the site, the proposed new cultivation development and the remediation of the decommissioned site are unlikely to significantly affect sensitive plant communities. Additionally, invasive plant species were not observed during the biological reconnaissance survey. The BA recommends that the proposed new cultivation areas are surveyed by a qualified botanist. The Cultivation and Operations plan's Invasive Species Management plan identified the invasive Bull Thistle as present on the site, which will be dug up when infestations appear. The site will be mowed regularly to prevent flowering and seed production of any bull thistle. The Invasive Species Management Plan will be modified as necessary if additional invasive species are identified by a qualified botanist.

The nearest northern spotted owl (NSO) activity center is approximately 0.8 miles from the proposed cultivation area. The BA determined that, because the project area has a long history of human disturbance, the area cannot be interpreted as suitable for nesting NSOs. While the surrounding area is preferred habitat for NSOs, the CNDDDB does not indicate any nesting spotted owls within 0.25 miles, nor have any NSOs been reported within the BA's assessment area since 2010. Additionally, no habitat encroachment is proposed to take place, no NSO nesting, roosting, or foraging habitat will be removed as a result of this project. Even if NSOs are present within range of the project, the biologist believes that all the activities associated with the cultivation are unlikely to adversely impact northern spotted owls or any other species with a preference for late mature forest habitat. The project will be connected to PG&E power, so generator use is restricted to emergency use only, and that generator and the

greenhouse fans will not exceed 50 decibels at the edge of the habitat. The project will adhere to International Dark Sky Association standards, so no light shall escape the greenhouses between dusk and dawn.

The subject parcel is within 1.3 miles of several mapped ranges for rare or endangered species listed in the CNDDDB. The BA provides determinations and recommendations for these species, separated by guild. The BA concluded that, due to pre-existing site disturbance and lack of observations, the project will likely have no significant direct impacts to plant or animal communities, however it recommends a seasonally appropriate botanical inspection and, if vegetation removal must take place during nesting or raptor breeding season, conducting bird surveys prior to vegetation removal. A phone conversation with CDFW confirmed the recommendation for a protocol-level botanical survey, requested the survey be approved by CDFW, and requested that, if a special-status species is found, the observation is reported to the CNDDDB. These recommendations have been included in the conditions of approval for the project. An initial botanical field survey was performed on May 13<sup>th</sup>, 2022, finding no sensitive plant species or habitats, but the survey memorandum notes that another site visit during the bloom period of additional special-status plant species is required before a protocol-level botanical report can be prepared. Given the fact that the elevation of the site is over 2,800 feet, only two special-status plant species had not yet bloomed when the initial field survey was performed and would have a likelihood of occurring on the site, *Eucephalus glabratus* and *Lilium washingtonianum* ssp. *purpurascens*. Neither of these species have nearby mapped ranges, nonetheless the project is conditioned to have an additional botanical survey performed in June or July, during their blooming period, and to submit the protocol-level Botanical Survey with the findings from both site visits. Construction activities shall only commence in the event that no rare, threatened, or special-status species are found onsite. If rare, threatened, or special-status species are found onsite, the biologist shall notify the Planning Director in consultation with CDFW. The Planning Director shall determine in consultation with CDFW whether modifications to the project design are possible to avoid removal of occupied habitat while still achieving project objectives, or if avoidance is not feasible (COA A.7). If avoidance is not feasible, the project is conditioned to be reduced in scale or modified to ensure avoidance occurs.

The project was referred to the California Department of Fish & Wildlife (CDFW) on January 14<sup>th</sup>, 2020, and no comments were received. On April 15<sup>th</sup>, a follow-up was sent to CDFW, and a phone discussion took place on May 2<sup>nd</sup>, 2022, recommending in the condition discussed above, though modifications to the condition were made as more information was obtained. The applicant had submitted an application for a Lake or Streambed Alteration Agreement with CDFW in 2017. The application mentions two existing stream diversions being used for both domestic and irrigation purposes. There are no stream crossings onsite. The applicant shall adhere to the work outlined in the final Agreement.

### **Noise**

Performance Standards required in the CCLUO, per section 55.4.12.6, states that noise from cultivation and related activities shall not result in an increase of more than three decibels of continuous noise above existing ambient noise levels at any property line of site. Because the power is sourced from PG&E, the project is not expected to raise noise levels. The generator on site will only be used during power outages and, when in use, will produce less than 60 decibels (dba) at 100 feet when in operation. The project is conditioned to prepare a Noise Study to determine ambient noise levels and to not go over three decibels above that noise level for the life of the project.

### **Energy Plan**

The project's power source will be PG&E. All PG&E power will be sourced from renewable energy programs. The parcel is presently not connected to PG&E power. Until connected, no mixed light cultivation can occur, only outdoor will be permissible. If power is required prior to being connected, the nearby parcel, APN 316-313-007, can provide grid power via a permitted easement for access. A Honda EU2200i 2200-Watt 120-Volt Super Quiet Inverter generator is kept onsite for emergency use only.

### **Tribal Cultural Resource Coordination**

The project is located within the ancestral aboriginal territories of the Tsnungwe Council, Hoopa Valley Tribal Council, and the Bear River Band of Rohnerville Rancheria. The project was referred to the Hoopa Valley Tribal Council and Bear River Band tribes on January 14<sup>th</sup>, 2020, and to the Tsnungwe Council on February 17<sup>th</sup>, 2022. The project was also referred to the Northwest Information Center (NWIC) on January 14<sup>th</sup>, 2020. NWIC responded on January 28<sup>th</sup>, 2020, noting two cultural studies which included the project area in their review, neither of which identified the presence of any cultural resources. NWIC also recommended that the lead agency contact the local Native American tribes regarding traditional, cultural, and religious heritage values. The Bear River Band commented on January 31<sup>st</sup>, 2020, confirming that due to the results of the previous surveys, only inadvertent discovery protocols would be recommended. Tsnungwe Council responded on February 18, 2022, stating that the previous surveys would be sufficient. Hoopa Valley Tribal Council has not provided comment. Inadvertent discovery protocols are in place for the project. In the event that cultural resources are encountered during project activities onsite, the applicant shall adhere to inadvertent discovery protocols, halt operations, and contact a qualified archaeologist.

### **Access & Parking**

Access to the site is from a private road which offshoots from what was historically Highway 299, which in turn offshoots from Titlow Hill Road, a paved County-maintained road. The property owner has submitted a formal roadway evaluation prepared by Trinity Valley Consulting Engineers Inc. This evaluation determined that Titlow Hill Road meets the Category 4 standard, old Highway 299 is developed to the equivalent of a Category 4 roadway, and the private road will be able to accommodate the cumulative increased traffic from the project, provided that recommendations are executed. The roadway evaluation recommended clearing brush from the right-of-way on the private driveway to improve visibility. The project was referred to Public Works and comments were received January 27<sup>th</sup>, 2020. The department recommended conditions of approval for the project, including: all fences and gates shall be relocated out of the County right-of-way with appropriate setbacks, any existing or proposed driveways accessing the project shall be improved to current standards and will require an encroachment permit from the Department of Public Works, surfaced parking lots shall have an oil-water filtration system prior to discharge into any County-maintained drainage facility for stormwater runoff, and all driveways and private road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility). The recommended conditions have been included in the Conditions of Approval for the project that must be met before commencing project activities onsite.

The project anticipates a maximum of four (4) employees during peak season. The current site plan and operations plan designate a total of four (4) parking spaces onsite and no additional parking spaces are needed.

### **Summary**

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 Planning Commission (See Attachment 2 for more information). Staff recommends that the Planning Commission describe the application as a public hearing, request that staff present the project, open the public hearing and receive testimony, make all the required findings for approval of the Special Permit, and adopt the Resolution approving the application subject to the recommended conditions.

**ALTERNATIVES:** Several alternatives may be considered: 1) The Planning Commission could elect not to hear this item and put the decision making in front of the Board of Supervisors. Any decision to place this matter before the Board of Supervisors must be done before opening the public hearing on this project; 2) The Planning Commission could elect to add or delete conditions of approval; 3) The Planning Commission 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.