

Kofman Realty, LLC

Record Number: PLN-11759-CUP
Assessor's Parcel Number: 216-202-010

Recommended Planning Commission Action:

1. Describe the application as a public hearing;
2. Request that staff present the project;
3. Open the public hearing and receive testimony; and
4. Close the hearing and take the following action:

Find that the Planning Commission has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) as described by Section §15164 of the State CEQA Guidelines, make all of the required findings for approval of the Conditional Use Permit and adopt the Resolution approving the Kofman Realty, LLC, project as recommended by staff subject to the recommended conditions.

Executive Summary:

Kofman Realty, LLC, seeks a Conditional Use Permit to allow the continued operation of an existing 16,100 square feet of full sun outdoor cannabis cultivation operation 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). The site is designated as Timberland (T) in the Humboldt County 2017 General Plan Update and zoned Agriculture Exclusive (AE) and Timber Production Zone (TPZ). The applicant anticipates there will be two cultivation cycles annually.

Processing such as drying and curing will occur on the neighboring parcel under the same ownership (APN 216-202-009) within an existing 800-square-foot facility, as well as a 600 square foot building. The 600 square foot structure will serve as a propagation facility from February 1st through July 1st, after which the facility will transition to processing in the latter half of the year, drying and curing harvested cannabis from September 1st to December 31st. Trimming is proposed to occur offsite in a licensed third-party processing facility. The applicant expects a maximum of 13 employees on site at peak operation across both parcels. Power will be supplied by generators, which have been conditioned to be housed in secondary containment (**Condition B.7**).

Water Resources

Water will be sourced from a point of diversion on APN 216-202-009, and the point of diversion will serve the 16,100 square feet of full sun outdoor cannabis cultivation as well as the 37,578 square feet of cannabis on APN 216-202-009. The applicant expects to utilize 68,700 gallons of irrigation water for the project, as well as 160,300 gallons of irrigation water for the project on the adjacent legal parcel under the same ownership (APN 216-202-009). Water from the point of diversion will be stored in hard sided tanks on APN 216-202-009, with 32,800 gallons of storage currently existing, and 200,000 gallons of hard tank storage proposed. The applicant has demonstrated an existing water right to divert up to 0.24 acre feet (approximately 78,204 gallons) of water from the point of diversion and store up to 0.31 acre feet (101,014 gallons) of diverted water, and has elected to pursue expanded water rights to meet the total estimated water usage of 229,000 gallons. If the applicant is unable to obtain expanded water rights to meet cultivation demand, the applicant shall reduce the cultivation to an amount appropriate for the existing water right (**Condition A.16**).

The applicant submitted a Site Management Plan (SMP) prepared by Timberland Resource Consultants which states the applicant is a Tier 2 discharger. Recommended monitoring and mitigation measures have been included as a condition of approval (**Condition A.12**).

Tribal Consultation

The project is located in the Bear River Ancestral Territories. The project was referred to the Northwest Information Center and Bear River Band of the Rohnerville Rancheria. The applicant submitted a Cultural Resource Study (CRS) prepared by William Rich and Associates dated November 2021. The CRS concluded that there was a site of potential significance on APN 216-202-009, and recommended that until such a time as the site was formally evaluated through archaeological methods such as excavation and testing, the site be treated as a significant archaeological site, eligible for inclusion on the CRHR and thus considered a historical resource for the purpose of CEQA, and avoided from all damaging impacts. The report recommended that no further ground disturbance occur within the boundaries delineated for the archaeological site; however continued use of the existing water storage tanks and traveling over the existing road would not cause substantial adverse changes to the archaeological site. If cultivation methods or other conditions change, additional archaeological investigation and tribal consultation would become necessary. This has been included as an ongoing condition of approval (**Condition B.5**). Inadvertent discovery protocol is an ongoing condition of approval for this project (**Condition B.6**).

Biological Resources

The nearest Northern Spotted Owl (NSO) activity center (HUM0326) is located approximately 1.12-miles south of the cultivation site and the nearest NSO observation was observed approximately 1.08-miles south from the cultivation site. No mapped Marbled murrelet habitat is present within an approximately 9-mile radius of the subject parcel. There is a mapped occurrence of *Howellia aquatilis* (water howellia) in North Dobbyn Creek, which flows through a portion of the subject parcel, and North Dobbyn Creek is also an area of documented winter steelhead distribution. North Dobbyn Creek is approximately 1,000 feet from the proposed cannabis cultivation at the closest point. The applicant submitted a Site Management Plan (SMP) prepared by Timberland Resource Consultants dated January 29, 2021. Staff believes that if all recommended corrective actions in the SMP are followed there will be no adverse impacts on sensitive species in North Dobbyn Creek.

Access

The property is accessed via a private road from Stewart Ranch Road. According to the Road Evaluation submitted Registered Professional Engineer David Nicoletti, dated March 22, 2021, the Stewart Ranch Road segment is not developed to the equivalent of a road category 4 standard, and the private road is not developed to the equivalent of a road category 2 standard. A Roadway Evaluation was completed by David Nicoletti with relevant documentation and recommendations for roadway improvements to bring the roadway up to an acceptable standard, which have been included as conditions of approval (**Condition A.15**). The project was referred to the Department of Public Works who commented the applicant shall ensure all driveways and private road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance); the applicant shall rock the surface at the location of Stewart Ranch Road where it meets the access road to the parcel, for a minimum width of 20 feet and a length of 50 feet; and the applicant shall ensure that all gates are sufficiently setback from the county roads so that vehicles do not block traffic when staging to open/close the gate. These conditions shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license (**Conditions A.9-11**).

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 Mitigated Negative Declaration 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).

RECCOMENDATION: Based on a review of Planning Division reference sources and comments from all involved referral agencies, Planning staff believes that the applicant has submitted evidence in support of making all of the required findings for approval of the Conditional Use Permit (CUP).

ALTERNATIVES: The Planning Commission could elect not to approve the project, or to require the applicant to submit further evidence, or modify the project. If modifications may cause potentially significant impacts, additional CEQA analysis and findings may be required. These alternatives could be implemented if the Commission is unable to make all of the required findings. Planning staff has stated that the required findings in support of the proposal have been made. Consequently, Planning staff does not recommend further consideration of any alternative.

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.