



COUNTY OF HUMBOLDT

For the meeting of: 2/6/2025

File #: 25-189

To: Zoning Administrator

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

Birds of Paradise Farms, LLC Special Permit for 9,960 square feet of existing outdoor cultivation
Assessor Parcel Number 221-071-042 & 221-071-045
Record No.: PLN-12533-SP
Miranda area

A Special Permit for 9,960 square feet (SF) of existing outdoor commercial cannabis cultivation supported by a 512 SF ancillary propagation greenhouse. The project also includes a Special Permit for encroachment in a Streamside Management Area for the use and maintenance of a micro-hydro system on APN 221-071-045. Water is sourced exclusively from rainwater catchment, captured and stored in three onsite ponds. The total storage capacity of the three ponds is approximately 640,000 gallons and there are 8,000 gallons of storage available in tanks. The annual estimated water budget is 112,275 gallons, or 11.27 gallons per square foot per year. Processing will occur onsite in an existing 900 SF building or will occur offsite at a licensed facility. Power is provided by a photovoltaic system and micro-hydro system, with a 25-kilowatt (kW) generator utilized only for emergency backup. The applicant proposes a maximum of six employees in addition to the applicant themselves and their spouse.

RECOMMENDATION(S):

That the Zoning Administrator:

1. Adopt the resolution (Resolution 25-___), which does the following:
 - a. Finds the Zoning Administrator has considered the Mitigated Negative Declaration (MND) previously adopted for the Commercial Medical Marijuana Land Use Ordinance as well as the Addendum to the MND that was prepared for the Birds of Paradise Farms, LLC project pursuant to Section 15164 of the CEQA guidelines; and
 - b. Finds the proposed project complies with the General Plan and Zoning Ordinance; and

- c. Approves the Special Permit subject to the conditions of approval.

DISCUSSION:

Project Location:

This project is located in the Miranda area, on the northwest side of Thomas Road, approximately 2.7 miles west from the intersection of Howard Lane and Thomas Road, on the properties known as 3180 Thomas Road and 7320 Thomas Road.

Present General Plan Land Use Designation:

Agricultural Grazing (AG), Density: Range is 20 to 160 acres per unit; Timberland (T), Density: Range is 40 to 160 acres per unit; Residential Agriculture (RA40), Density: 40 acres per unit; 2017 General Plan, Slope Stability: Moderate Instability (2) and High Instability (3).

Present Zoning:

Agricultural Exclusive (AE); Timberland Production (TPZ); Unclassified (U)

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.

Executive Summary:

A Special Permit for 9,960 square feet (SF) of existing outdoor commercial cannabis cultivation supported by a 512 SF ancillary propagation greenhouse. The project also includes a Special Permit for encroachment in a Streamside Management Area for the use and maintenance of a micro-hydro system on APN 221-071-045. Water is sourced exclusively from rainwater catchment, captured and stored in three onsite ponds. The total storage capacity of the three ponds is approximately 640,000 gallons and there are 8,000 gallons of storage available in tanks. The annual estimated water budget is 112,275 gallons, or 11.27 gallons per square foot per year. Processing will occur onsite in an existing 900 SF building or will occur offsite at a licensed facility. Power is provided by a photovoltaic system and micro-hydro system, with a 25-kilowatt (kW) generator utilized only for emergency backup. The applicant proposes a maximum of six employees in addition to the applicant themselves and their spouse.

Water Resources:

The annual estimated water budget for irrigation is approximately 112,275 gallons, which is sourced exclusively from three rainwater catchment ponds onsite. Proposed water usage is roughly 11.27 gallons per square foot per year. The three ponds are labeled Pond 2, Pond 3, and Pond 4 on the site plan, and collectively hold 640,000 gallons of water and support an additional cultivation site on a separate parcel under common ownership. There are 8,000 gallons of additional water storage in four tanks. The applicant analyzed 30 years of rainfall data and using the mean of the three driest years of 29.76-inches, demonstrated that adequate water can be collected within the three ponds to meet water needs. Based on the ponds' 15,400 SF of catchment area, approximately 285,523 gallons could be collected in a low rainfall year. The additional cultivation site that these ponds support requires 107,300 gallons annually, so total water usage from these ponds annually would be 219,575 gallons. The amount of available water storage in the ponds represents over 290% of the projects' annual water budgets; the potential rain collection on low rainfall years represents roughly 130% of the total annual water budget. Water is pumped from the catchment ponds to the tanks using solar powered pumps and circulates back to the ponds using the same solar pumps.

The project was referred to the Division of Environmental Health which responded that the applicant must demonstrate that processing activities are able to be supported by an approved onsite wastewater treatment system adding that seasonal/outdoor cultivation sites may be supported by portable toilets. Applicant must obtain a permit for, and install, an approved onsite wastewater treatment system to support the processing location and either install approved septic systems or provide portable toilets to cultivation areas (**Condition C.3**).

Biological Resources:

A review of the California Natural Diversity Database (CNDDDB) was conducted on September 25, 2024, and found reference to the potential presence of giant fawn lily (*Erythronium oregonum*) on an adjacent parcel, according to a Phelps Collection dated 1972, and the potential presence of steelhead trout (*Oncorhynchus mykiss irideus*) in a creek adjacent to the site. The lily has a California Rare Plant Rank of 2B.2, rare, threatened, or endangered in CA. The historic cultivation area was consolidated to an area within curtilage of the existing residence, in areas of previous disturbance. The project is for pre-existing cultivation, no new structures are proposed on this site that would impact the giant fawn lily, and the project has been conditioned to provide a seasonally appropriate botanical survey for any new ground disturbing activities (**Condition B.1**). Steelhead trout are mapped in a creek which begins beyond the easternmost corner of the subject parcel, which has tributaries along the eastern and northern edges of the subject parcel that are not mapped to contain steelhead trout, but given the distance of the project site to the parcel boundaries, they would be unlikely to be impacted by operations onsite.

The nearest mapped Northern Spotted Owl (NSO) (*Strix occidentalis caurina*) activity center (HUM0976) is approximately 2.1 miles to the north, and habitat for marbled murrelet (*Brachyramphus marmoratus*) exists approximately 1.3 miles north of the parcel boundary. Artificial light, which is limited to the ancillary propagation area, will be blocked by blackout tarps to prevent

any light from escaping the structures 30 minutes prior to sunset and 30 minutes after sunrise. The generator used for emergency backup shall operate at or below 50 decibels (dB) at 100 feet or nearest forested edge, whichever is closer (**Condition C.5**). Both artificial lighting and generator use are disallowed until the applicant can demonstrate they meet the limitation thresholds and until that is verified by Planning Division staff (**Condition C.5 and C.8**).

The Final Lake and Streambed Alteration Agreement (LSAA) from California Department of Fish and Wildlife (CDFW) identifies multiple streams onsite and indicates that multiple stream crossings need to be upgraded on the site, including excavation, removal of old culverts, replacement with new culverts, backfilling and compaction of fill, and rock armoring as necessary to minimize erosion. Project conditions require the applicant to maintain compliance with the terms of the LSAA (**Condition C.22**). As proposed and conditioned, the project is consistent with CMMLUO performance standards and will not negatively impact the NSO, marbled murrelet, or other sensitive species.

Energy:

Power is provided by a photovoltaic system, a micro-hydro system, and a generator serving as backup. The generator may be used for emergency purposes only and is subject to appropriate noise limitations: 50 decibels (dB) at 100 feet or nearest forested edge, whichever is closer, and not audible from neighboring residences (**Condition C.5**). The micro-hydro system is included in the site's LSAA.

Access:

Access to the parcel is taken from a private driveway accessed from Thomas Road, which is county maintained. The private driveway has been improved to meet Public Works' commercial driveway standards. The intersection between the driveway and Thomas Road is located on the subject parcel, then the approximately 1,000-foot driveway from Thomas Road passes through the subject parcel to two parcels, one of which is under common ownership with the subject parcel. Project conditions require the applicant to demonstrate the 1,000-foot driveway meets or exceeds California Department of Forestry and Fire Protection (CalFIRE) Minimum State Responsibility Area Fire Safe Regulations within two years of project approval (**Condition A.8**). The property owner is a member of a Road Maintenance Association responsible for maintaining the private driveway.

Thomas Road is listed on Public Works' List of County Maintained Roads that meet (or are equivalent to) Road Category 4 standards for Cannabis Projects, from Salmon Creek Road to the end of its County-maintained portion. The private driveway starts within the County-maintained section.

The project was also referred to the Salmon Creek Volunteer Fire Company (SCFVC), which did not provide comment. The project is conditioned to obtain a will serve letter from the SCFVC (**Condition A.4**). Project conditions require a revised site plan with 60 days of approval depicting emergency vehicle turnaround as well as water storage dedicated to fire protection (**Condition A.6**).

There will be up to six employees at peak operations. Project conditions require within 60 days of

approval a revised site plan depicting six parking spaces, including one ADA compliant parking space (**Condition A.6**).

Geologic Suitability:

The project parcel is mapped as High Instability in the County WebGIS. The cultivation area is proposed within the curtilage of the existing residence on the subject parcel and is subject to obtaining building permits and agricultural exemptions. No new grading or structures are proposed to implement the project.

Security and Safety:

Per the project Operations Plan, the cultivation area is behind a locked gate and signage stating 'No Trespassing' surrounds the site. Buildings will also have locks. A security camera system will also be installed and announced with signage. A neighborhood watch provides warning to neighbors regarding suspicious activity. The Operations Plan also describes employee safety practices and lists emergency contacts, such as the owner, emergency responders, and hazardous material control agencies. The applicant proposes a maximum of six employees in addition to the applicant themselves, and their spouse.

Tribal Consultation:

The project is within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria and the Intertribal Sinkyone Wilderness Council. The project was referred to the Northwest Information Center at Sonoma State, Sinkyone Wilderness Council, and Bear River Band of Rohnerville Rancheria Tribal Historic Preservation Officer (THPO). A Cultural Resources Investigation dated June 2019 prepared by William Rich concluded that while the site contained at least two cultural or historical resources that may be eligible for listing to the California Register of Historical Resources, they were both located over 600 feet from the cultivation area and supporting facilities. The project has been conditioned for inadvertent discovery protocol for any ground disturbing activities (**Condition C.1**).

Legal Parcel Status:

A Determination of Status was approved November 2, 2022, and resulted in a Certificate of Subdivision Compliance for APNs 221-071-005 and 221-071-019 as one legal parcel. APN 221-071-042 is one legal parcel, eligible for a Certificate of Subdivision Compliance because the associated conditions on PLN-2022-17998 have been completed. APNs 221-071-005 and 221-071-019 were later combined and assigned APN 221-071-045. Each of the subject APNs comprise one legal and contiguous parcel under the Subdivision Map Act.

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 South Fork Eel Watershed, which under

Resolution 18-43 is limited to 730 permits and 251 acres of cultivation. With the approval of this project and the adjacent project, PLN-12535-SP, the total approved permits for cultivation in this Planning Watershed would be 288 permits and the total approved acres would be 86.1 acres of cultivation. More specifically, the project is within the Salmon Creek subwatershed, which is one of the Cannabis Impacted watersheds, as identified in Resolution 18-43. Therefore, no expansion beyond the pre-existing cultivation site is permitted.

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 Zoning Administrator could elect to add or delete conditions of approval. The Zoning Administrator 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. Cultivation Operations Plan and Addendum
 - C. Site Plan
2. Location Map
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
 - A. Lake and Streambed Alteration Agreement
 - B. Site Management Plan
5. Referral Agency Comments and Recommendations

APPLICANT, OWNER, AGENT AND PLANNER INFORMATION:

Applicant:

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File #: 25-189

Owner:

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Please contact Augustus Grochau, Planner, agrochau@co.humboldt.ca.us or 707-441-2626 if you have questions about this item.