

**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 Environmental Impact Report for the Commercial Cannabis Land Use Ordinance (CCLUO) as described by Section §15164 of the State CEQA Guidelines, make all of the required findings for approval of the Special Permit and adopt the Resolution approving the **Nava Ranch, LLC** Special Permit as recommended by staff subject to the recommended conditions.*

**Executive Summary:** A Special Permit for expansion of approved project PLN-12657-SP. The project will consist of 43,560 square feet (SF) of mixed light cultivation in twelve (12) greenhouses and 2,500 SF of indoor cultivation in a converted barn. The original project consisted of 6,600 square feet of mixed light cultivation, 2,700 square feet of outdoor cultivation, and 2,500 square feet of indoor cultivation. The outdoor cultivation will be converted to mixed light and the total mixed light cultivation area will be expanded to one acre. This represents a total increase of 36,960 SF of mixed light cultivation area. The applicant hopes to achieve up to three (3) harvests annually. All water will be sourced by rainwater catchment from an existing pond, a proposed pond, and an existing rooftop rainwater catchment system. The estimated water needed annually for irrigation is approximately 550,000 gallons (11.94 gal/sq.ft./yr). The ponds will total approximately 1,050,000 gallons of storage, and twelve (12) 5,000 gallon tanks are proposed, for a total of 1,110,000 gallons of water storage. There is also one separate 5,000 gallon tank designated for fire suppression. Drying, trimming, and processing will occur onsite in the existing 900 SF storing, processing, and packaging building. Operations will utilize one (1) full-time employee, up to three (3) additional seasonal employees, and up to four (4) family members, totaling eight (8) laborers. There is a portable restroom facility on site for employees, and a cannabis support building is proposed with an additional septic system. Power is sourced from PG&E via a green energy program and there is an existing solar array onsite featuring six (6) panels with outputs of 235 watts each. There is a 25 kilowatt (kW) Whisperwatt generator kept onsite for emergency use only.

There will be 43,560 SF of mixed light cultivation proposed to be within twelve (12) greenhouses, six of which would be 3,264 SF and six of which would be 3,978 SF. The applicant hopes to achieve up to three (3) harvests annually. Ancillary propagation is proposed to occur within a 2,500 SF greenhouse. An existing 900 SF structure will be used for drying, trimming, and packaging, although processing at a licensed third-party facility is also anticipated. The applicant shall permit or acquire agricultural exemptions for all buildings with a nexus to cannabis, including but not limited to thirteen (13) greenhouses, one (1) indoor cultivation building, one (1) drying and processing building, and one (1) chemical storage building.

The site is located in an area of Moderate Instability for seismic safety, and the applicant has obtained an R-2 Soils Report (RSR) for the proposed development. The RSR was prepared by Allan Baird of A.M. Baird Engineering and Surveying, Inc. The RSR states that the entire property appears stable and should continue to be stable, provided that the report's recommendations are followed. The RSR provides standards that the project shall adhere to which regard cut and fill of slopes, setbacks of slopes from the development, slope construction, foundation construction, dust control, drainage, erosion and sedimentation control, watercourse protection, and revegetation. These standards are included in the implementation measures of the Grading and Erosion Control Plan. The Grading and Erosion Control Plan proposes grading of slopes which are greater than 15%, however the as-built grading plan within that plan shows that these slopes are a result of previous grading activities associated with the existing cultivation from PLN-12657-SP that were in existence prior to January 1, 2016, and therefore these areas

have been considered pre-disturbed area. The flat areas of less than 15% and the piles of disturbed soil with slopes greater than 15% were in existence prior to the baseline established for the ordinance. The grading is being done to create consistent terraced flats for the new greenhouses.

The project is adjacent to a portion of the King Range National Conservation Area and the previous project on site, PLN-12657-SP, included a setback reduction to approximately 100 feet of the public lands. The findings for approval of the setback reduction can still be made for this expansion, particularly as the expansion is further back from the public lands than the existing cultivation. Additionally, given that the operation will be powered by PG&E and includes measures to ensure no light escapes, the project is consistent with the terms of the previously approved Special Permit for the setback reduction. This expansion was referred to the Bureau of Land Management who manages these adjacent public lands in April 2021 and comments were received on April 12, 2022 just prior to completion of this staff report. These comments are more specifically discussed in the Bureau of Land Management Coordination section below, however whereas BLM did not previously object to the approval of the setback reduction to public lands on the previously approved project, they express significant concerns over the reduction request for this project. While the setback reduction from BLM lands for the existing and permitted cannabis operation was approved and this proposed expansion will be further back from what was approved, given that it is an expansion staff believes this requires an additional setback reduction to be approved for the expanded cultivation. If this setback reduction is not approved the application for expansion would not be able to be approved and should be denied.

There is a septic system onsite, which needs to be permitted with the Environmental Health Division, as well as portable toilets for employee use. The project is conditioned to obtain a new permit for the onsite septic prior to commencing processing activities. The existing septic system has sufficient capacity to handle the existing load and the proposed load. The applicant plans to develop an additional cannabis support building in the future which will include an additional permitted septic system for the project.

The project is within the jurisdiction of Mattole Unified School District. A request for comment was not sent to them because they had already responded to the referral for PLN-12657-SP and it is assumed that their response would be identical. Their previous response was that the project is not within 600 feet of a school or bus stop, and that while the District may need to add a bus stop within 600 feet at some point in the future, there is no conflict at this time. They also appended their Board policy for a Drug and Alcohol-Free Workplace.

### **Water Resources**

The project's water source is rainwater catchment. There is an existing rooftop catchment system on the residence and adjacent shop structure, an existing rainwater catchment pond capable of storing 300,000 gallons, and a proposed rainwater catchment pond capable of storing 750,000 gallons. Water from these sources will also be stored in twelve (12) 5,000 gallon tanks. There is also one (1) additional 5,000 gallon tank designated for fire suppression. Total proposed water storage for irrigation is approximately 1,110,000 gallons. The catchment surface of the proposed new pond alone is 17,375 square feet, and based on locally collected data from neighbors with rain gauges, the rainfall for a dry year is over 80 inches. Using these values alone, the total rainwater collection potential is 865,970 gallons, which would be pumped to the tanks. Any overflow not pumped to the tanks will drain away from the pond via its overflow structure. Including the 2,100 square feet of roof area and the area of the existing catchment pond, roughly estimated to be 5,800 square feet, the estimated total rainwater collection potential would be 1,258,808 gallons per year. Based on World Weather Online data, average annual rainfall for the Honeydew area in general is estimated at 56 inches per year, which would result in 881,166 gallons of rainwater collection potential. From that data, 2020 had the lowest amount of rainfall, at 32.7 inches, which would have resulted in 514,525 gallons of rainwater collection potential, and 2016 had the highest amount of rainfall, at 102.8 inches, which would have resulted in 1,617,198 gallons of rainwater collection potential. The potential rainwater catchment area which could be provided by the greenhouses has been omitted from these calculations, because they would only be utilized for catchment on an as-needed basis.

The applicant estimates that annual water usage for irrigation will be approximately 550,000 gallons (11.94 gal/sq.ft./yr). An onsite well was proposed, however preliminary test drills came up dry, so the rainwater catchment was expanded to accommodate all irrigation needs. Employee drinking water and handwashing water will be sourced by plastic water bottles and jugs brought to the site regularly. Water designated for employees was sourced differently in the Cultivation and Operations Plan, so the project is conditioned to provide an Addendum correcting that detail. The property utilizes a registered spring diversion from off site for domestic uses only. No water sourced from diversions or wells will be used for irrigation.

The subject parcel contains one Class II watercourse and one Class III watercourse which were observed by Mason London, the principal consulting biologist for the Biological Reconnaissance Survey Report (BRSR) prepared for the site. No hydric soils were found in the two (2) test pits dug into the most probable areas with proximity to the project site, so it is unlikely that any wetland habitats have potential to be impacted by the proposed project. Because of this, a protocol-level wetland determination was not performed and is not recommended by the BRSR. A 150 ft buffer from the edge of the Class II watercourse and a 50 ft buffer from the edge of the Class III watercourse are recommended by the BRSR, and the project area is well outside of each of these buffers. Map 3 in the BRSR shows the location of these watercourses and their buffers in relation to the project area.

The applicant is currently cultivating under the approved PLN-12657-SP, which was enrolled in the North Coast Regional Water Quality Control Board's (NCRWQCB) (Order No. 2015-0023) Waiver of Waste Discharge Requirements and General Water Quality Certification. A Water Resource Protection Plan was developed to comply with this order, which will need to be updated to a Site Management Plan in order to comply with 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 is conditioned to enroll in the SWRCB's General Order prior to commencing the expanded cultivation activities, and shall submit a Notice of Applicability letter or Notice of Receipt as proof of enrollment before those cultivation activities can occur. The project is required to have a Site Management Plan (SMP) prepared within 90 days of enrollment to outline onsite measures required to meet the standards of the SWRCB's Order. The applicant shall submit the final Site Management Plan to the Planning Division, and shall adhere to the measures and recommendations within the final SMP. The project site is located in the Cape Mendocino 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 214 permits and the total approved acres would be 77.19 acres of cultivation.

### **Processing**

Drying and processing will take place in the 900 SF storing, processing, and packaging building. The building will be permitted as a commercial structure. Third-party processing is also proposed for what cannot be processed onsite. An additional cannabis support building is proposed, which will house future processing operations and will also be permitted as a commercial structure.

One (1) full-time employee and one (1) family member are required to maintain the site. Up to three (3) additional employees and up to three (3) additional family members may be required seasonally to support planting and harvest periods. The applicant has declared themselves an agricultural employer as defined in the Alatorre-Zenovich-Dunlop-Berman Agricultural Labor Relations Act of 1975.

### **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. Additionally, the project is located in the Honeydew Volunteer Fire Company Response Area (HVFC). The project was referred to HVFC on April 26<sup>th</sup>, 2021 and no comment has been provided.

The project was referred to CalFire on April 26<sup>th</sup>, 2021 and CalFire responded on May 12<sup>th</sup>, 2021 that they could not support the project due to apparent removal of trees to construct the existing pond. This comment matches the comment from the previous project, PLN-12657-SP. The previous project had a timber conversion report prepared, which determined that no timber conversion had taken place for

the pond. The existing pond has been estimated to have been built in 1960 and the removal of two lone trees in 2017 was determined not to constitute timberland conversion.

### **Biological Resources**

Biological resource surveys were conducted in the study area on March 16<sup>th</sup>, 2021 by Mason London and Sarah Mason, a qualified biologist and qualified botanist respectively, and on June 7<sup>th</sup>, 2021 by Sarah Mason. These surveys were used to inform the Biological Reconnaissance Survey Report (BRSR) prepared by biologist Mason London for Naiad Biological Consulting and the protocol-level Botanical Survey Report prepared by consulting botanist Michael Weldon in conjunction with Naiad Biological Consulting, prepared on April 7<sup>th</sup>, 2021 and July 8<sup>th</sup>, 2021 respectively.

The Botanical Survey Report concluded that the expansion of cultivation operations is unlikely to harm any special status plants or natural plant communities. The only special status plant species identified in the study area was the Alaskan yellow-cedar, which is believed to have been planted ornamentally. There are some native grasses present in the project area, but no sensitive natural plant communities could be established during surveys due to the large amount of invasive grasses present, consistent with historic grazing. The Botanical Survey Report identified the invasive species which shall be removed per the Invasive Species Control Plan found in the Cultivation and Operations plan prior to their bloom and seed periods each year.

The subject parcel contains mapped range for marbled murrelets, and is located outside of any mapped ranges for other rare or endangered species listed in the California Natural Diversity Database (CNDDDB) layer shown in Humboldt County's Web GIS. The BRSR determined that, due to the lack of available habitat for marbled murrelets, there is no potential of occurrence in the project area nor the surrounding area. The nearest northern spotted owl (NSO) activity center is approximately 2.20 miles from the proposed cultivation area, and there is one NSO observation that is approximately 0.6 miles from the nearest proposed cultivation area. The BRSR determined that the project site is not dominated by the NSO's preferred forest type and is therefore not likely to be utilized for nesting and roosting. There is moderate suitable habitat for NSOs surrounding the project site, but if the BRSR's recommendations are followed, all potential direct or indirect impacts to NSOs can be mitigated. Since all of the activities associated with the cultivation will have cultivation methods that minimize noise and light pollution, the cultivation is not expected to disrupt any essential NSO breeding activities or result in other harm to the species or any other species. The parcel is connected to PG&E power and has solar panels onsite, so generator use is restricted to emergency use only, minimizing noise. The project will adhere to International Dark Sky Association standards, so no light shall escape the greenhouses between dusk and dawn.

The BRSR also concluded that with the recommendations included in the report, the project will likely have no negative direct impacts to sensitive habitats, any more so than have already been impacted by historic land alteration, nor would there be any foreseeable indirect impacts to the environment, surrounding habitat, or wildlife. Recommendations within the BRSR include adhering to best management practices during the development and construction of the project, avoiding construction utilizing loud machinery during migratory bird nesting season, conducting bird surveys pre-construction if that construction must take place during nesting season, removing all cultivation material from outside of the designated project area and all trash from within and outside of the project area, complying with the protocols addressed in the CDFW Bullfrog Management Plan, conducting ground surveys for any American badger burrows prior to construction activities, and following the procedures for eradicating invasive species per the Invasive Species Control Plan. These recommendations have been included in the conditions of approval for the project, and 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.

The project was referred to the California Department of Fish & Wildlife (CDFW) on April 26<sup>th</sup>, 2021, and no comments had been received. On April 7<sup>th</sup>, 2022, CDFW noted that there was public comment regarding generator use and light pollution on the property. Also on April 7<sup>th</sup>, 2022, CDFW and Augustus Grochau, the assigned planner, discussed those potential issues in a phone conversation. The County believes that the project as conditioned will resolve or otherwise prevent those issues. The applicant for PLN-12657-SP had submitted an application for a Lake or Streambed Alteration Agreement with CDFW in 2019. The application mentions one existing stream diversion that is being used for domestic purposes only, and states that no instream work is proposed. There appears to be one stream crossing onsite, which is not proposed to be used for cultivation activities. There are two ditch-relief culverts on site which do not appear to be connected to any perennial or intermittent streams. A new notification of Lake or Streambed Alteration to CDFW will be required. The applicant shall submit the final LSA application response from CDFW, and in the event that a Streambed Alteration Agreement is required 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, state 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 will be sourced from PG&E and on-site solar, and the greenhouses will use low noise solar snap fans, 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 50 decibels (dba) at 100 feet when in operation. A site visit performed by Augustus Grochau, the assigned planner, and Cliff Johnson, the supervising planner, determined that the generator is presently utilized as the power source for the mixed light cultivation areas. Noise levels while the generator is running are 75 dbA at a distance of 5 feet, 50 dbA at a distance of 100 feet, and 35 dbA at a distance of 200 feet, at which point the generator is no longer audible. The generator has not been run any closer to the property line than 300 feet. The project is conditioned not to expand to the proposed cultivation area until the site is no longer dependent on generator power. The project has prepared a Noise Study to determine ambient noise levels. This study was performed on a day with windy and noisy conditions, so extended periods of noise have been omitted from the average. The ambient noise level averages between 35 and 37 decibels and the project is conditioned not to go over three decibels above that noise level for the life of the project. The project is also conditioned to prepare an additional noise study during better conditions to help establish a more typical baseline.

### **Energy Plan**

The proposed project's power source is PG&E and an existing solar panel array. The array has some proposed upgrades, so it will better meet the project's power demands and any necessary PG&E power will be sourced from renewable energy programs. The light bulbs used during mixed light cultivation are low wattage fluorescents. For the proposed project a 25 kW WhisperWatt generator will be kept onsite for emergency use only. This generator is presently not used. The current mixed light cultivation's primary power source is a small Honda 2200 watt generator, and the project is conditioned not to expand to the proposed cultivation area until the site is no longer dependent on generator power. Presently, PG&E only serves the lower, southern portion of the property, where the previously approved indoor cultivation will occur. The applicant is proposing extending service to the upper, northern portion of the project, where the previously approved mixed light and outdoor cultivation occurs, and the proposed mixed light cultivation will occur, but the applicant is unable to invest in engineered plans for an application to PG&E until after a decision has been reached for this expansion proposal.

### **Tribal Cultural Resource Coordination**

The project is located within the ancestral aboriginal territories of the Sinkyone Intertribal Wilderness Council and the Bear River Band of Rohnerville Rancheria. The project was referred to the Sinkyone and Bear River Band tribes on April 26<sup>th</sup>, 2021. Neither has responded with comment, however the previous project, PLN-12657-SP, had also been referred to both tribes on August 8<sup>th</sup>, 2017. Only Bear River Band responded to that referral. Bear River Band had requested a cultural resources study if one had not already been prepared. The referral response from Northwest Information Center (NWIC) on September 7<sup>th</sup>, 2017 indicated that a cultural resources study which covered approximately 100% of the proposed project area had been completed in 1976 and found no cultural resources in the proposed project area.

Further correspondence with the Bear River Band in 2018 indicated that no additional survey would be required. NWIC also identified a building in the proposed project area from the US Geological Survey Honeydew 7.5' quad map from 1970. These are likely the residence and adjacent shop estimated to have originally been built in 1950, neither of which are proposed to be used by the cultivation project, nor are they proposed for demolition. 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.

### **Bureau of Land Management Coordination**

Due to the proximity of the project to Kings Range National Conservation Area, the project was referred to the Bureau of Land Management (BLM) on April 26<sup>th</sup>, 2021. On April 1<sup>st</sup>, 2022, BLM corresponded with the County stating that a comment letter was being prepared and would be completed before the end of the following week. For the previous project, PLN-12657-SP, the application was referred to BLM on August 28<sup>th</sup>, 2018 and comment was received on September 12<sup>th</sup>, 2018. This comment requested that the parcel be surveyed by a licensed professional land surveyor to ensure that trespass onto public lands does not occur. A field boundary survey was performed on September 7<sup>th</sup>, 2018 by Wallace E. Wright, a licensed land surveyor, and the plot plan resulting from that survey indicated that the house onsite was 192 feet from the property line and that the driveway connecting Landergen Road and Smith-Etter Road is located entirely on the subject parcel, 107-106-006.

On April 12, 2022, BLM submitted a comment letter raising significant concerns over this project and the requested setback reduction. Staff understands that this letter was facilitated after neighboring property owners contacted BLM to express their opposition. While not specifically requesting denial of the setback reduction, BLM raises concerns and objections about the proposed project and its requested setback reduction. Below is a synopsis of the BLM concerns and a staff analysis:

- BLM states that since Smith-Etter Road provides vehicular access to public campground, trails and recreational areas this roadway should similarly be considered a recreational area under the code for which no setback reduction should be granted. BLM and other federal agencies own and maintain many public roads throughout Humboldt County and these roadways have never before been considered a recreational area for the purposes of this section and staff does not support that classification here. Of note is that Smith-Etter Road in this location is an easement with the underlying land owned by the applicant. BLM suggests that the property owner not be permitted to utilize the public road on their own property which seems somewhat problematic as an examination of the deed indicates that the property owner owns the underlying fee title to this roadway.
- BLM states that the applicant does not have a right of way over the portion of Landergen Road that comes off of Wilder Ridge Road since this portion is on underlying BLM property. This road is a county-maintained road with a County-easement for such use.
- BLM raises questions about the source of water that appear to be misinformed. The existing pond is rainwater catchment and a 750,000 rainwater catchment pond is proposed. The registered POD is not being utilized for the cannabis operation.
- BLM raises concern over impacts to Coho and Chinook salmon, and steelhead in Bear Trap Creek and Honeydew Creek. Bear Trap Creek is over 600 feet away from the project and Honeydew Creek is over 1,300 feet away and on the other side of two public roads from the project.
- Lastly, BLM raises concern over the proximity of this site to a Northern Spotted Owl (NSO) critical habitat. However, the nearest NSO activity center is over 2 miles away, which is far beyond the distance discussed in the EIR for the CCLUO as a potential impact to NSO from operation of cannabis facilities, and the Biological Study determined that, although there is moderate suitable habitat for NSOs surrounding the area, if recommendations are followed, then all potential direct or indirect impacts to the species can be mitigated.

Planning staff discussed these comments with BLM and asked them to attend the Planning Commission hearing however they stated that they did not wish to attend because they did not wish to get involved in the permitting decisions that the County makes. The BLM property for which the setback reduction is requested is an in-holding that is surrounded on all sides by private properties, all of which either have

approved or in-process cannabis applications. Given that the setback reduction was already approved for the previously approved project, and BLM previously provided comments that did not object to cannabis being operated at this site, and further that the proposed project will be further away from publicly owned lands than what was previously approved, staff supports approval of this application.

### **Access & Parking**

Access to the site is from Landerger Road, a paved County-maintained road. The applicant also uses a portion of Smith-Etter Road, a BLM road for access across the parcel. The applicant for PLN-12657-SP submitted a road evaluation report for Landerger Road self-certifying that both are developed to the equivalent of a Category 4 road standard. The new project was referred to Public Works and comments were received May 6<sup>th</sup>, 2021. The department recommended conditions of approval for the project, including: the applicant is advised that the County-maintained roads may generate dust and other impacts to farms and the applicant shall hold the County harmless from these impacts, all fences and gates shall be relocated out of the County right-of-way with appropriate setbacks, no materials shall be stored or placed in the County right-of-way, 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, all driveways and private road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility), and the applicant shall remove an automatic gate key punch which was installed without County review. The key punch has since been removed, but the other 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 and up to four (4) family members, including the applicant, during peak season. The current site plan designates a total of six (6) parking spaces onsite at the northern, upper cultivation site and two (2) additional parking spaces would be needed, but there is presently room for parking at the southern, lower cultivation site, near that residence.

### **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 Cape Mendocino 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 214 permits and the total approved acres would be 77.34 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 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).

### **Public Comments**

This project was scheduled and noticed for the March 17, 2022 Planning Commission hearing. Prior to the hearing, a number of public comments were submitted by neighboring property owners. These comments generally relate to allegations that the current operation is out of compliance and is operating as a public nuisance. The hearing was continued to April 21, 2022 so that staff could more fully investigate these allegations and conduct a site visit. A site inspection by County staff found that the site appears to be operating in compliance with all applicable requirements. While the site inspection was unable to verify the allegations, this project has generated extensive concern from many of the neighboring property owners. The allegations and staff findings are more specifically summarized below:

- **No evidence of sufficient power.** Though not clear in the applicant's operations plan, further discussion with the applicant and the on-site inspection reveals that the application is for a tier 1 mixed-light operation under the state, which is no more than 6 watts per square foot and it is unlikely that the entirety of the cultivation will be operating at this wattage at any single time. The applicant utilizes only small fluorescent lights for their mixed-light operation which do not

draw much power. The existing 100-amp residential service is likely sufficient for the minimal wattage needs of the project. Due to the lack of clarity in the applicant's operation plan a condition of approval has been added to require wattage not to exceed 6 watts per square foot (**COA B.2**).

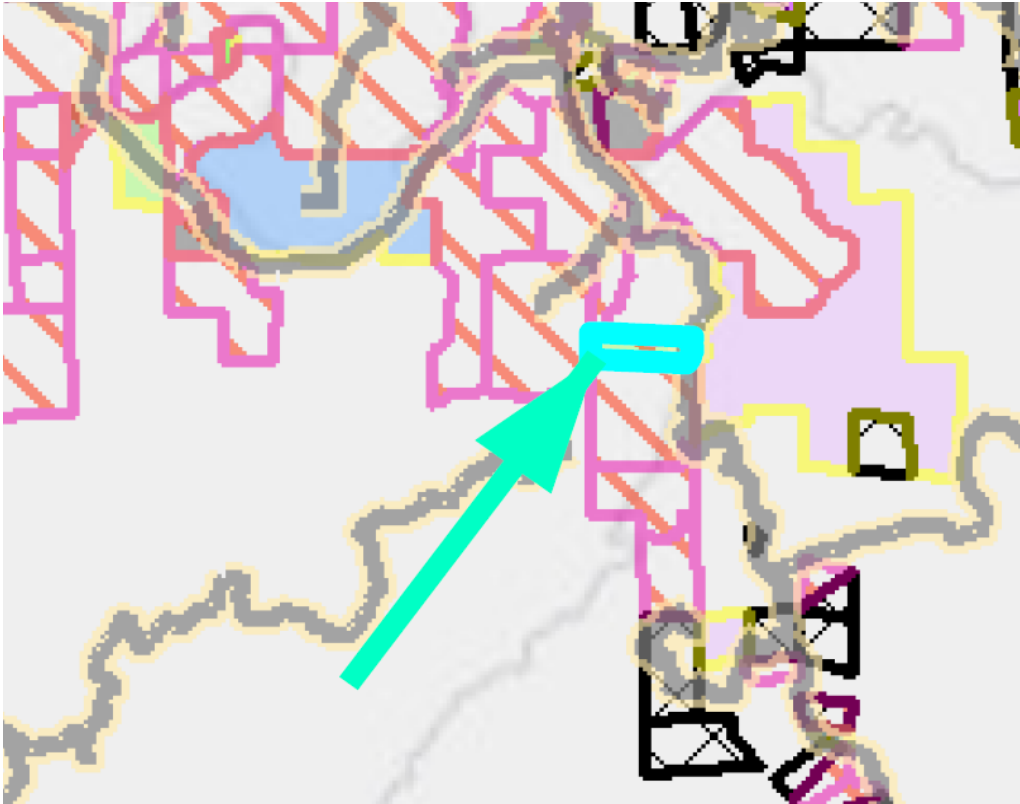
- **Applicants run a loud generator all day and night and this is audible from adjacent residences. Lights are consistently uncovered and running all night and visible from adjacent residences.** Prior to the public notice for this project the County had never received a complaint about light or noise from this project site. This site is clearly visible from Wilder Ridge Road, and Smith-Etter Road runs immediately adjacent to the existing operation. Both of these roadways are relatively heavily used and the County has never before received light or noise complaints from this site. A site visit conducted by county staff shortly after these allegations were submitted found no fans or lighting in any of the currently operating greenhouses. Light shielding tarps were in place and fully functional. Low wattage fluorescent lights were stored in the on-site residential garage along with a small 2200-watt Honda generator. Per discussion with the applicant these lights are used early in the cultivation run and then removed. While on-site County staff measured the noise from the generator at full load. Noise levels at full load were measured with a properly calibrated noise meter at 75 dbA at a distance of 5 feet, 50 dbA at a distance of 100 feet, and 35 dbA at a distance of 200 feet, at which point the generator is no longer audible. The generator was also not audible at the nearest public road, Smith-Etter Road. All property lines and residences are further in distance. County staff did visually identify a 25-kw generator located on the property not in the location of the cultivation. Per the applicant this was left on the property from the previous land-owner and is not functional. Photographs submitted by the agent corroborate this disuse.
- **Employee count is under-reported.** While on-site there were a total of four employees/operators on the property and less than 10,000 square feet of cannabis was actively in cultivation. This employee count does appear low compared to similar sized operations however the applicant insists that this can be accomplished.
- **Low water use.** While the amount proposed in the operations plan is relatively low compared to typical farms, County staff does believe that cultivation methods can account for wide disparities in irrigation needs. The proposed new 750,000 gallon rainwater catchment pond should be more than sufficient to account for any overage in their irrigation needs.
- **No biological or botanical studies for public review.** Biological and botanical studies were prepared for this project and are appended to the staff report. These have been available for public review however no request to review these had been made.
- **General site cleanliness.** Staff found the site to be in good condition with no substantial visible trash or waste.
- **No State Water Board Enrollment and concern about erosion and sedimentation running into Honeydew Creek.** The applicant is currently enrolled with the Water Board (WDID#1\_12CC403232) with no listed violations.
- **Property Line Setbacks.** The proposed project occurs in the northern portion of the subject parcel. A boundary survey of the northern parcel line is appended to this staff report. The structures that may be in close proximity to the southern property owner are associated with an existing residence and domestic garden which has no nexus to the proposed cannabis project in the northern portion of the property.
- **Road Evaluation not sufficient.** County staff found that the road was in good condition and capable of supporting the low traffic associated with both this project and the adjacent approved cannabis site. While not a Category 4 roadway, Landergen Road is a County-maintained road which only serves this site and one other. A Google Street View of the intersection of Wilder Ridge Road and Landergen Road is in the figure below.





Of note for the Planning Commission is that this area has a high density of cannabis applications that have already been approved or are in progress. This includes some adjacent applications that have been approved for setback reductions to public lands. The public lands that this project site is located close to is a BLM inholding (APN 107-106-001) that is surrounded by private lands, all of which either have large existing or proposed cannabis facilities. The property immediately to both the West and the North of both this project site and the public land inholding has approved cultivation permits for a total of nearly 7 acres of outdoor cannabis cultivation, and the property immediately to the east of this project site and the public land inholding has an application in progress for 1 acre of existing cultivation and 3 acres of new mixed-light cultivation. The three properties immediately south of this project site have approved cannabis cultivation permits, including one with a setback reduction to public lands that has been approved.

The figure below is a focused view of the Watershed Map, showing the various cannabis applications and permits in the vicinity. You will note the property immediately to the north of the project site is the BLM inholding that requires a public lands setback, and that this parcel is surrounded on all sides by cannabis activities.



### **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.