

Serendipity Associates, Inc.

Record Number: PLN-11940-CUP

Assessor's Parcel Number: 218-091-007

Recommended Commission Action

1. Describe the application as part of the Consent Agenda.
2. Survey the audience for any person who would like to discuss the application.
3. If no one requests discussion, make the following motion to approve the application as a part of the consent agenda:

Adopt the Resolution to:

1) Find that the Commission has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Land Use Ordinance (CCMLUO), as described by Section §15164 of the State CEQA Guidelines; and 2) make the required findings for approval of the Conditional Use Permit; and 3) approve the Serendipity Associates, Inc. Conditional Use Permit and Special Permit as recommended by staff subject to the recommended conditions.

Executive Summary

Serendipity Associates, Inc. seeks a Conditional Use Permit (PLN-11940-CUP) for an existing 16,934 square feet (SF) of cannabis cultivation consisting of 7,060 SF mixed light cultivation and 9,874 SF outdoor cultivation, and a Special Permit for work within the Streamside Management Area (SMA) for culvert replacement and modifications to a French drain system, as recommended by the Water Resources Protection Plan (WRPP). Plants are propagated in two (2) ancillary propagation areas totaling 1,540 SF.

The site is zoned as Forestry Recreation and Special Combining Zone (FR-B-5[40]) as defined in the Humboldt County 2017 General Plan Update. Drying and further processing occur onsite in two (2) sheds totaling 640 SF. Three (3) full-time and up to three (3) part-time employees are required for project operations. The primary source of electrical power is a 1.59-kW solar array supported by 20 kW of battery storage. Backup power sources include a Honda EU 7000is generator and Caterpillar MQ20 WhisperWatt diesel generator.

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 cultivation permits and acres which may be approved in each of the County's Planning Watersheds. The project site is located in the Middle Main Eel Planning Watershed, which under Resolution 18-43 is limited to 360 permits and 125 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 92 cultivation permits and the total approved acres would be 44.57 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).

Water Resources

Irrigation water is sourced from an onsite rainwater catchment pond with a storage capacity of 600,000 gallons. Estimated annual water use is 252,200 gallons (14.9 gal/SF). Water is stored in the pond and in two (2) 3,000-gallon tanks and two (2) 2,500-gallon tanks. Total water storage is 249,600 gallons.

A Water Resources Protection Plan (WRPP) was prepared in fulfillment of State Water Resources Control Board (SWRCB) General Order WQ 2019-0001-DWQ. The document was prepared to meet the North Coast Regional Water Quality Control Board (NCRWQCB) requirements for Tier 2 discharges of waste resulting from cannabis cultivation (WDID No. 1B161709CHUM). The subject parcel is located in the Chamise Creek watershed and includes two (2) Class II watercourses and one (1) Class III watercourse. There are six (6) stream crossings (SC) on the property. The applicant seeks a Special Permit for work

within the SMA for culvert replacement and modifications to the French drain system, as recommended by the WRPP.

The WRPP includes recommendations intended to reduce erosion and sediment delivery to nearby streams. Recommendations include (**Condition 9**):

- Remove debris from Stream Crossing (SC) 1 and properly armor the crossing.
- Replace the undersized culvert at SC 3 with a properly sized culvert and properly armor the crossing.
- Replace the culvert at SC 5 and properly armor the crossing.
- Remove unused materials and irrigation lines from the project site.
- At Pond 1, modify the French drain system upstream by creating wood chip filled basins adequately sized to capture 100% of the receiving water. Extend wood chip mulch cover to cover the area downslope of the terraced cultivation area. Modify the pond outflow pipe per the engineer's design. Add an infiltration swale/bioswale downslope of the pond outflow per the engineer's design.
- Remove the culvert from the Class III watercourse west of the main cultivation area. Clear the Streamside Management Area (SMA) of farming materials and debris. Replant the area with native vegetation.

A Lake and Streambed Alteration Agreement (LSAA) has been filed with the California Department of Fish and Wildlife (CDFW) to address all work to be done within the waterways (Notification No. 1600-2018-0721-R1). The LSAA addresses nine (9) project encroachments, including one (1) point of diversion, five (5) stream crossings, and three (3) reservoirs. LSAA requirements include (**Condition 10**):

- Remove the existing water diversion (POD-1) according to the specifications of the LSAA. Replace undersized culverts at Crossings 1-3.
- Replace an undersized culvert at Crossing 6.
- Rock and outslope the road, and remove the outboard berm.
- Decommission Crossing 8.
- Replace an undersized culvert at Reservoir 1.
- Maintain infrastructure at Reservoir 2 according to the specifications of the LSAA.
- Decommission Reservoir 3 and restore the stream channel.

The LSAA establishes specific requirements that the applicant must apply to offset potential impacts to waterways within the area. The recommendations are summarized as follows (**Condition 11**):

- Document all activities that occur within waterways at the project site.
- All work shall be confined to the dry weather period, from June 15 through October 15 of each year.
- Water diversion structures shall be constructed and maintained to not inhibit the movement of aquatic life.
- Erosion and runoff protection measures shall be placed and maintained along streambanks prior to any construction activities.
- The maximum instantaneous diversion rate from the water intake shall not exceed three (3) gallons per minute (gpm) at any time, and the applicant shall bypass 90% of flow at all times.
- Project work shall be completed by no later than October 15, 2025, and notification of completion shall be submitted to CDFW within seven (7) days of project completion.

Biological Resources

A Biological Resources Assessment was prepared by Dennis Halligan of Stillwater Sciences on May 14, 2019. The assessment identified no special status species within the project area. However, several special status species—including four (4) birds, two (2) mammals, and the foothill yellow-legged frog—have potential to occur within the project area. Furthermore, watercourses on the subject property drain into Chamise Creek, which contains anadromous salmonids. Therefore, the report includes several

recommendations to reduce the potential for project impacts to special status species (**Condition 12**):

- Implement erosion and sediment control best management practices (BMPs) identified in the LSAA.
- Capture flowing water in a cofferdam and pipe it around the worksite to keep it dry, thereby minimizing erosion and sediment delivery potential to nearby streams.
- Prior to beginning work within watercourses, have a qualified biologist conduct a pre-construction survey 3-5 days prior to commencement of construction. The biologist shall examine the project site and an additional 150 feet upstream and downstream of the project site to determine if foothill yellow-legged frog adults, juveniles, tadpoles, or egg masses are present. If any foothill yellow-legged frogs are identified, the biologist will immediately contact CDFW and provide a description of observations. The biologist will propose site-specific measures to avoid a taking. Instream work may not begin until approval from CDFW has been granted. If no foothill yellow-legged frogs are identified, an approved amphibian exclusion fence shall be installed upstream and downstream of the work area.
- Locate equipment access and staging areas on existing roads, where possible, to minimize impacts to vegetated areas.

Additionally, CDFW requires that rainwater catchment ponds be monitored for American bullfrog presence on an annual basis, as specified in **Condition 18**.

Tribal Cultural Resource Coordination

An archaeological survey report was prepared by Alex DeGeorgey, M.A., RPA, of Alta Archaeological Consulting (May 22, 2017). A field survey of the project area resulted in the identification of no cultural resources. The report concluded that the project is unlikely to have an adverse effect on significant historical resources. The Native American Heritage Commission (NAHC) conducted a search of the sacred lands file on June 6, 2017 and did not identify any sensitive tribal resources in the project area. Outreach letters were sent to all tribal groups identified by the NAHC. According to responses from tribal representatives, the project area is located outside of Wiyot ancestral territory and outside of the Blue Lake Rancheria tribe's area of concern. No additional communication from tribal communities has been received.

The report recommended establishing protocols to protect cultural resources and/or human remains which may be discovered inadvertently during project work. The standard Inadvertent Discovery Protocol will be used to protect artifacts or remains that may be discovered during project work (**Condition 13**).

Access

The project is located on the north, south, west, and east sides of South Face Road, approximately 2.2 miles from the intersection of Hogtrap Road and South Face Road, in the Garberville area in southern Humboldt County. Using forms provided by Humboldt County Department of Public Works (DPW), David Nicoletti, PE, QSD/QSP, evaluated M Road, a private access road, and a 0.25-mile segment of South Face Road Road A and found these road segments were not developed to the equivalent of a road category 4 standard or better (April 4, 2019). Nicoletti recommended the following improvements be made in order for the roads to be safe for vehicular travel: widen all undersized gates to 14 feet in width, mow grass along the roadside to expose turnouts, clean roadside ditches and unclog culverts, and install water bars or rolling dips at Photo Locations 50, 64, 87, and 128 in accordance with Appendix D (Rural Roads: A Construction and Maintenance Guide for California Landowners) (**Condition 14**). DPW recommended additional conditions of approval related to private road intersections and driveway visibility (**Conditions 15 and 16**).

Oak Woodland Habitat Management Plan

An Oak Woodland Habitat Management Plan (OWHMP) was prepared by Hollie Hall, Ph.D., of Compliant Farms Certified (August 28, 2019). The OWHMP addresses riparian restoration, oak tree replanting, conifer thinning and fuel load reduction, and oak woodland management within the project site (**Condition 17**). Recommendations of the OWHMP include:

- Restore two (2) portions of a riparian corridor identified in Figure 2 of the OWHMP. Establish a 50-foot buffer from development activity to protect oak trees from inundation of water. Remove a water bladder and culvert from the riparian corridor.
- Mulch and monitor planting spots for oak tree replanting. Install wild deer exclusion cages to protect plants for three (3) years after planting.
- Per the specifications of the OWHMP, thin conifers and reduce fuel loads on the project site in two (2) phases.
- Ensure full implementation of the OWHMP through regular monitoring during the plan's five-year cycle.

California Environmental Quality Act (CEQA)

Environmental review for this project was conducted in April 2022 by the County. Based on the results of that analysis, staff finds that all aspects of the project have been considered in the Mitigated Negative Declaration (MND) adopted for the Commercial Medical Marijuana Land Use Ordinance on January 26, 2016. Accordingly, staff has prepared an addendum to this document for consideration by the Planning Commission. See **Attachment 2** for more information.

RECOMMENDATION: Based on a review of Planning and Building Department 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) and Special Permit (SP).

ALTERNATIVES: The Planning Commission could elect to 1) not approve the project, or 2) 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 which case, the Commission should continue the item to a future date at least two months later to provide staff adequate time to complete further environmental review.