

Recommended Commission Action

1. Describe the application as a public hearing; and
2. Request that staff present the project; and
3. Open the public hearing and receive testimony; and
4. Close the hearing and adopt the Resolution to take the following actions:
Find that the Commission has considered the Addendum to the adopted Mitigated Negative Declaration (MND) for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) as described by Section 15164 of the State California Environmental Quality Act (CEQA) Guidelines, make all of the required findings for approval of the Conditional Use Permit and adopt the Resolution approving the 5 Star Cali, LLC Conditional Use Permit as recommended by staff subject to the recommended conditions.

Executive Summary: 5 Star Cali, LLC seeks a Conditional Use Permit to allow the continued operation of an existing 17,100-square-foot (SF) cannabis cultivation operation in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, CMMLUO. The site is designated as Residential Agriculture (RA) in the Humboldt County 2017 General Plan Update and zoned Forestry Recreation (FR). The cannabis cultivation operation consists of 9,600 SF of mixed-light cultivation in eight existing greenhouses on two flats, and 7,500 SF of full-sun outdoor cultivation proposed to be relocated away from two fire-safety water storage ponds to an area to the west. 1,300 SF of immature plant cultivation in three existing nurseries is proposed. The operation anticipates two harvests will occur for a growing season that extends from February through October. The parcel is developed with an existing single-family dwelling (875 SF), carport (375 SF), yurt, and nutrient storage sheds.

Drying of harvested cannabis will occur in existing outbuildings. All buildings and historic grading shall be permitted as a condition of approval (**COAs #A6-8**). Processing would occur offsite at a licensed facility. The facilities are owner-operated, and there are no additional employees at this time. Power for the cultivation operations is provided by two generators: one Multiquip 45-kilowatt generator and one Honda EU3000. The generators are used as needed and are operational for service 5 months per year (March-August) and they will be registered with the North Coast Air Quality Management District, as needed, as a condition of approval (**COA #A9**). There are 2,500 gallons of diesel fuel stored on the property. An alternative energy system is to be developed in in order to reduce or eliminate reliance on generator electricity within 5 years of project approval (**COA #A10**). The cultivation and operation areas are secured with a locked security gate. A large portion of the property is fenced, and cultivation sites are fenced for wildlife exclusion. All cannabis and cannabis materials are secured in locked locations. One or more persons reside onsite 24 hours a day, 7 days a week.

The project site is located in the Mad River Planning Watershed, which under Resolution 18-43 is limited to 334 permits and 115 acres of cultivation. With the approval of this project, the total number of approved permits in this Planning Watershed would be 61, and the total approved acres of cultivation would be 23.57.

Water Resources

Water for irrigation is provided by an existing 255,000-gallon rain catchment pond established in 2006 and 28,000 gallons of onsite storage tanks for a total of 283,000 gallons of stored water. Drip irrigation will be used with supplemental hand watering, mulching, time of day watering, and moisture retentive soils for water conservation. Water is applied at no more than agronomic rates. Water shall not percolate below root zone. An estimated 250,000 gallons of water will be used per growing season for irrigation. Domestic and drinking water is provided from an onsite well. Water usage (domestic and irrigation) to be recorded monthly and reported annually pursuant to North Coast Regional Water Quality Control Board (NCRWQCB) Investigative Order No. R1-2019-0023 (**COA #A11**). The Division of Environmental Health referral response dated April 2018 recommends no processing be approved until the project provides site suitability evidence necessary to permit any existing or proposed wastewater treatment

system, and that the existing well used for domestic purposes be destroyed or permitted; these have been made conditions of approval (**COA #A12**). Two additional ponds are onsite that are used only for emergency fire protection. One existing 7,500-SF cultivation area is adjacent to one of these ponds and is proposed to be relocated further west, outside the buffer area of this perennial pond.

A Water Resource Protection Plan (WRPP) was prepared by Mother Earth Engineering, Inc. in November 2016 and a Site Management Plan will be developed as required by the State Water Resources Control Board Order WQ 2019-001-DWQ for Tier 1 and 2 Dischargers. All recommended conditions set forth in the WRPP, including the recommended corrective actions, are made a condition of approval (**COA #A13**). The WRPP identified three culverts that drain vegetated gullies on the ridge-top site as properly sized but in need of rock armoring. The California Department of Fish and Wildlife (CDFW) in a referral response dated 8/22/17 identified irrigation water as potentially coming from a hydrologically connected pond and recommended that the applicants provide additional information and inquire whether a Lake and Streambed Alteration Agreement (LSAA) is needed from CDFW. The planner believes that the hydrologically connected pond in question is shown as the 150,000-gallon fire protection pond on the 2021 site plan, which is not being used for irrigation. Regardless, obtaining a final LSAA or obtaining a notification that one is not needed from CDFW for the three culverts and irrigation pond is made a condition of approval (**COA #A14**). Although Humboldt County's WebGIS shows no mapped streams, the Site Plan prepared by Mother Earth Engineering shows three Class III watercourses with associated 50-foot Streamside Management Area (SMA) buffers. However, planner analysis of 2019 Google Earth imagery indicate the mixed-light greenhouses in cultivation area 1 are 25 to 30 feet from the centerline of clearly visible watercourses. As a result, the applicant is conditioned to have a qualified professional map and categorize the adjacent water course and to move existing and proposed cultivation areas outside of any required SMA buffers (**COA #A15**). SMA buffer reductions may be allowed without a Special Permit in consultation with CDFW (Humboldt County Code 314-61.1.7.6.3.2).

Biological Resources

No Biological Assessment has been prepared for the project. There are no California Natural Diversity Database (CNDDDB) mapped sensitive species onsite and although the nearest northern spotted owl (NSO) activity center is located approximately 0.77 mile south of the cultivation sites, lands surrounding the site are heavily forested; thus, there is high potential for NSO habitat. Per the applicant, two generators are onsite, and these will meet the performance standards for noise set by Department Policy Statement No. 16-005 clarifying CMMLUO Section 55.4.11(o), which requires noise levels be at or below 50 decibels at 100 feet or edge of habitat, whichever is closer. As a result, the project is conditioned to ensure the combination of background, generator, and greenhouse fan or other operational equipment created noise meets the noise level threshold. Conformance will be evaluated using current auditory disturbance guidance prepared by the United States Fish and Wildlife Service. Based on CNDDDB, the project is within the vicinity of mapped Oregon goldthread (*Coptis laciniata*) and American peregrine falcon (*Falco peregrinus anatum*). Further, the upland grasslands where relocated cultivation is proposed could contain sensitive natural communities (i.e., *Danthonia californica* Alliance). As a result, a seasonally appropriate, special-status botanical survey report prepared by a qualified botanist is required prior to any future construction preparation or other ground-disturbing site development as a condition of approval. The botanical report is to be filed with County Planning for approval prior to ground disturbance or issuance of building and grading permits for the proposed relocation of 7,500 SF of outdoor cannabis as a condition of approval (**COA #A16**).

The project has been conditioned to ensure supplemental lighting associated with mixed-light cultivation is fully contained with blackout tarps and have all outside lighting on timers or motion sensors to reduce light exposure to wildlife and their potential habitat and avoid heavy equipment operations during the NSO critical period (March 15–July 31) or perform protocol-level surveys prior to initiating that work (**COA #A17**). Furthermore, the project is conditioned to adhere to Dark Sky Association standards for greenhouse lighting and security lighting, refrain from using synthetic netting, ensure refuse is contained in wildlife-proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife. As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively affect NSO or other sensitive species.

Tribal Cultural Resource Coordination

There are no known tribal cultural resources on the project site. The project was referred to the Northwest Information Center and the Bear River Band of the Rohnerville Rancheria in 2017. William Rich and Associates prepared a Cultural Resource Investigation in January 2021 and reported finding no historical cultural resources on the subject property. The Tribal Historic Preservation Officer of the Bear River Band of the Rohnerville Rancheria requested that the project be conditioned with the standard Inadvertent Discovery language and this has been incorporated with the conditions to protect cultural resources and tribal cultural resources.

Airspace Certification

An airspace certification has been submitted to the County verifying that the project is in compliance with County Code Section 333-4 for building height limits.

Access

The project is located in Humboldt County, in the Dinsmore area, on the east and west sides of Bear Creek Road, approximately 0.21 mile north from the intersection of Coyote Flat Road and Bear Creek Road, on the property known as 2291 Bear Creek Road (APN: 208-271-010). Road Evaluation Reports were prepared by the applicant for Bear Creek Road, Dinsmore Road, and Van View Road, which indicate that all roads are developed to the equivalent of a road category 4. Bear Creek Road is maintained by an informal neighborhood road association. Additional evidence and photo-documentation from a second Road Evaluation Report prepared for a parcel on this same road (Mamba Humboldt Logistics) prepared by the agent was also evaluated and deemed to strengthen the determination that the road is developed to the equivalent of a road category 4 standard.

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 MND that was adopted for the CMMLUO and 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 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.

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 2 months later to give staff the time to complete further environmental review.