

DNJ, LLC.

Record Number: PLN-12765-CUP

Assessor's Parcel Number: 314-224-003

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;*
2. *Make the required findings for approval of the Special Use Permit; and*
3. *Approve the BCRD LLC (12765) Conditional Use Permit as recommended by staff subject to the recommended conditions.*

Executive Summary: BCRD LLC ("Applicant/Owner") seeks approval for a Conditional Use Permit to permit a maximum of 18,283 square feet (SF) of existing cannabis cultivation, consisting of 5,323 SF outdoor cultivation and 12,960 SF mixed light cultivation. A total of 4,500 SF of immature/nursery space is requested for approval for propagation. An 1,800-SF commercial structure is proposed to be built to support onsite processing. Until the structure is permitted and constructed, processing will occur off-site. The medical cannabis permit application is 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), Zoning Clearance Certificate for Interim Permit (IP), and the Cultivation Area Verification (CAV) developed for the site.

The parcel, APN 314-224-003, measures approximately 169 acres in size. The parcel is zoned as Timber Production Zone (TPZ) and is described in the Humboldt County General Plan as Timber (T) and Agricultural Grazing (AG). The site will be managed by up to four (4) full-time employees with up to three (3) additional employees during the peak season(s). Electricity is provided by a 2.5kw solar array with two (2) 6000kw inverters and 23kw of battery storage. The solar array is attached to a trailer and can be moved to power the well pump, and auxiliary lights for the nursery. A backup diesel generator (MQ Whisperwatt 2500) is onsite and used when required or if energy needs exceed the solar input.

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 Van Duzen Planning Watershed, which under Resolution 18-43 is limited to 425 permits and 146 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 110 permits and the total approved acres would be 37.63 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).

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) and Special Permit (SP).

Water Resources

Irrigation water is sourced from an existing groundwater well (Permit No. 17/18-1659 [10 gpm]). The applicant has submitted a letter from Fisch Drilling (David Fisch), dated January 11, 2022, which concludes that “the well is completed in the Franciscan Formation, drilled into a perched bedrock with no hydraulic connection to any surface water or any part of a larger shallow homogeneous aquifer”. Annual water use is estimated at 187,500 gallons (10.25 gallons/SF). Total water storage is 41,020 gallons in seventeen (17) poly tanks: eleven (11) 2,600-gallon tanks; two (2) 2,500-gallon tanks; one (1) 1,320-gallon tank; one (1) 1,500-gallon tank; one (1) 1,600-gallon tank; and one (1) 3,000-gallon tank.

The BCRD LLC, property is enrolled with the North Coast Regional Water Quality Control Board (NCRWQCB), with an enrollment identification number (WDID No. 1_12CC418048 / 1B16936CHUM) for coverage as a Tier 1 Low Risk Site for Order WQ 2019-0001-DWQ.

Biological Resources

Prior existing cultivation occurred within a Streamside Management Area (SMA); therefore, a *Botanical and Aquatic Resources Survey* was prepared in July 2019 by Kyle S. Wear, on behalf of Margro Advisors (project agent) to analyze potential environmental impacts. The survey determined that relocation of the cultivation areas outside of the SMA would be environmentally superior; therefore, cultivation areas are proposed for relocation (as shown on the current site plan attached to this Staff Report). The proposed relocation areas are located outside of the SMA on a dry ridge with no sensitive botanical or aquatic resources. The relocation areas consists of upland grassland vegetation dominated by non-native grasses and other herbaceous plants. There are no indicators of hydric soil, wetland hydrology, watercourses, or other non-wetland waters. All prior SMA cultivation areas have been restored with native grasses/seeds, and no further action(s) were recommended. In conclusion, project activities are not expected to produce any adverse or cumulative effects to any special status species or habitat. Therefore, impacts to biological resources are considered low and unlikely.

Tribal Cultural Resource Coordination

A database search for known cultural resources was requested of the Northwest Information Center (NWIC) in October 2018. Although the NWIC had no record of any previous cultural resources for the project area, NWIC recommended a survey be conducted by a qualified archaeologist to ensure that the project area does not contain evidence of any unrecorded archaeological sites. The tribal representative from the local tribe (Bear River Band of the Rohnerville Rancheria) also requested a formal survey of the site be completed. Therefore, a “*Cultural Resource Investigation Report for the BCRD LLC Commercial Cultivation Permit (APN: 314-224-003)*” was completed in March 2021 by Roscoe and Associates. The report concluded that there are “no resources within any of the existing cultivation areas.” Although the survey identified one chert flake and one structural foundation within 600 feet of a cultivation area, neither qualify as an historical resource and neither is eligible for the California Register of Historical Resources. The report also concludes that singular chert flake is not diagnostic of any particular cultural or temporal association, and is not considered to be associated with an archaeological deposit or any other feature. The report does not recommend any action beyond the inclusion of inadvertent discovery protocol in the event any historical artifacts or human remains are encountered during onsite cultivation activities (**Condition 13**).

Access

The project is located along Butte Creek Road, approximately 8 miles southeast of the unincorporated Kneeland area, in eastern Humboldt County (APN: 314-224-003). The Humboldt County Department of Public Works (DPW) reviewed the project and recommended conditions of approval pertaining to proximity to farms (**Condition 14**) and driveway/private road intersections (**Condition 15**). A Road Evaluation report dated September 2018 was submitted to DPW (but not stamped received by Planning), certifying that the roadway can accommodate the cumulative traffic increase from this project and all known cannabis projects identified. The Department requires all recommendations from the engineer be completed (**Condition 16**).

CEQA

Environmental review for this project was conducted in October 2021. Based on the results of that analysis, staff finds that all aspects of the project have been considered in the Mitigated Negative Declaration (MND) that was adopted for the CMMLUO and thus has prepared an addendum to the MND for consideration by the Planning Commission (See **Attachment 2** for more information).

NURSERY/PROPOGATION AREA

The applicant has requested a propagation/nursery area of 4,500 SF (24.6% of the 18,283 SF cultivation area), which is above the 10% threshold being recommended by Humboldt County. To comply with the 10% threshold, the applicant would be limited to 1,829 SF of nursery area. Therefore, the project has been conditioned to comply with the 10% threshold (**Condition 17**).

RECOMMENDATION:

Staff recommends that the Planning Commission describe the application as a part of the agenda; survey the audience to see if any person would like to discuss the application; if no one requests discussion, make all the required findings based on the evidence in the record; and approve the application subject to the recommended conditions.

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.