

Jake Perkins' Farm

Record Number: PLN-12905-CUP

Assessor's Parcel Number: 218-141-006

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 Conditional Use Permit; and*
3. *Approve the Jake Perkins' Conditional Use Permit as recommended by staff subject to the recommended conditions.*

Executive Summary: Jake Perkins' Farm seeks a Conditional Use Permit (PLN-12905-CUP) for 25,366 square feet (SF) of outdoor cannabis cultivation. Propagation occurs in three (3) areas totaling 2,952 SF. 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). The site has been issued a Zoning Clearance Certificate for Interim Permit (IP), based upon the Cultivation Area Verification (CAV) developed for the site. The cultivation area for this Conditional Use Permit is based upon the CAV prepared for the IP.

The project area is located on mountainous slopes with high instability. The present land use designation is Residential Agriculture (RA), as defined in the Humboldt County 2017 General Plan Update, and the 40-acre parcel is zoned as Forestry Recreation (FR) and Special Building Site (B-5(40)). Drying, hand trimming, and packaging occur onsite in a 2,400-SF facility. Besides the operator, no additional employees are needed to assist with cultivation operations. Electrical power is provided by a solar array, and a Kohler 8.5-kW propane generator is used as a backup power source.

Water Resources

Irrigation water is sourced from four (4) onsite rainwater catchment ponds (Ponds A, B, C, and D), which have a total storage capacity of approximately 1,100,000 gallons. Ponds A and B each have a capacity of approximately 300,000 gallons; Pond C has a capacity of 100,000 gallons; and Pond D has a capacity of 400,000 gallons. Additionally, water is stored in twelve (12) hard storage tanks, including four (4) 5,000-gallon tanks and eight (8) 3,000-gallon tanks. Total water storage onsite is 1,144,000 gallons. Cultivation areas are watered by drip irrigation systems. Total annual water use is estimated to be 210,000 gallons (8.3 gal/SF). The project can comply with full forbearance requirements during the required period (April 1 – October 31). The project area is located within the Eel River watershed.

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. 1B161048CHUM). The subject parcel includes four (4) unnamed watercourses that converge with Chamise Creek, which is a tributary of the Eel River. The WRPP recommends the following corrective actions be implemented in the project area: 1) install water meters at the point of diversion to track water usage; and 2) implement water conservation techniques (**Condition 9**).

A Lake and Streambed Alteration Agreement (LSAA) has been filed with CDFW to address work to be conducted within the waterways (Notification No. 1600-2019-0230-R1). The LSAA includes the following features: two (2) points of diversion (POD-1 and POD-2, or Pond D) and two (2) stream crossings (Crossings 1 and 3). At POD-2, the applicant shall install a new primary spillway designed to withstand 100-year flow

and debris. The existing spillway shall be retained for secondary overflow. The applicant shall maintain Crossing 1 in good condition and replace an existing 18-inch culvert at Crossing 3 with a minimum 30-inch culvert. **(Condition 10)**

There are additional features onsite that are not included in the LSAA (Notification No. 1600-2019-0230-R1) and require a separate agreement with CDFW to ensure compliance. These features include Ponds A, B, and C; Crossing 2; and Trail Unique Point 7. Within six (6) months of project approval, the applicant shall execute an agreement with CDFW to cover these features, which are subject to notification under Fish and Game code 1600. The applicant shall comply with the recommendations and deadlines identified in that agreement. **(Condition 11)**

The LSAA establishes specific corrective actions that the applicant must apply to offset potential impacts to waterways within the area. The corrective actions are summarized as follows: 1) Document all activities that occur within waterways at the project site; 2) All work (excluding the water diversion) shall be confined to the dry weather period, from June 15 through October 15 of each year; 3) Water diversion structures shall be constructed and maintained to not inhibit the movement of aquatic life; 4) Erosion and runoff protection measures shall be placed and maintained along streambanks prior to any construction activities; 5) The maximum instantaneous diversion rate from the water intake shall not exceed five (5) gallons per minute at any time, and the applicant shall bypass 90% of flow at all times; and 6) The proposed work shall be completed no later than October 15, 2022, and a notice of completed shall be submitted to CDFW within seven (7) days of project completion. **(Condition 12)**

Biological Resources

A list of potential special status species was generated in January 2022 using the following information systems: California Natural Diversity Database (CDFW 2021), Biogeographic Information and Observation System (BIOS), Northern Spotted Owl Viewer (CDFW 2021), and US Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC). No special status species are located within six (6) miles of the project area. The closest special status species is the foothill yellow-legged frog, a state-listed endangered species, approximately 32,000 feet (6.1 miles) away. Project activities are not expected to produce adverse or cumulative effects to any special status species or habitat, due to the small size of the project area and the type of proposed activities. Therefore, impacts to biological resources with project mitigation measures in place are considered low and unlikely.

Tribal Cultural Resource Coordination

An archaeological survey report was prepared by Nick Angeloff of Archaeological Research and Supply Company (ARSC) (October 2018). Representatives of ARSC conducted a field survey of the subject parcel in September 2018. No significant historic resources were identified, and the report concluded that the project will not affect historic resources. Consultation letters were sent to Native American groups associated with the project area, including the Native American Heritage Commission, Bear River Band of the Rohnerville Rancheria, and Sinkyone Intertribal Wilderness Council. The Bear River Band of the Rohnerville Rancheria requested a copy of the final report and concurred with the recommendations therein. The Sinkyone Intertribal Wilderness Council did not respond to requests for comment. The report recommends establishing a heightened Inadvertent Discovery Protocol to protect cultural resources and/or human remains which may be discovered inadvertently during project work **(Condition 13)**.

Access

The project is located on the north and south sides of Island Mountain Road, approximately 0.4 mile south from the intersection of Lauffer Road and Island Mountain Road, in the unincorporated Palo Verde area of southern Humboldt County. A certified civil engineer with DTN Engineering and Consulting evaluated a private road providing access to the project area, and determined it is not built to the equivalent of a road category 4 standard. The engineer recommended minor modifications to the road including cutting grass and clearing obstructions at the inlets and outlets of culverts **(Condition 14)**. The Humboldt County Department of Public Works (DPW) recommended standard conditions of approval relating to fences and encroachments, driveways, and intersections be applied to the project

(Conditions 15, 16, and 17).

California Environmental Quality Act (CEQA)

Environmental review for this project was conducted in January 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.

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 Middle Main Eel 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 approved permits in this Planning Watershed would be 84 permits and the total approved acres would be 41.03 acres of cultivation.

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).

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.