

New Earth Farms, LLC
 Record Number: PLN-12260-SP
 Assessor's Parcel Number: 524-072-010

Recommended Zoning Administrator 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:

Find that the Zoning Administrator has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) as described by Section §15164 of the State CEQA Guidelines, make all of the required findings for approval of the Special Permits based on evidence in the staff report, and adopt the Resolution approving the proposed New Earth Farms, LLC, project subject to the recommended conditions.

Executive Summary: New Earth Farms, LLC, seeks a Special Permit for the continued operation of 10,000 square feet (SF) of pre-existing mixed-light cultivation 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). A Special Permit is also requested to reduce the required 600-foot setback from public lands. The site is designated as Residential Agriculture (RA40) in the Humboldt County 2017 General Plan Update and zoned Unclassified (U). Cultivation takes place in the central portion of the property, within six (6) greenhouse structures, with propagation, drying, and storage occurring in a separate greenhouse just to the south. Three (3) harvests are anticipated annually for a growing season that extends from April through October.

Processing activities including drying, curing, and trimming will occur in a proposed 2,500-square-foot structure. Up to eleven (11) employees may be utilized onsite. Power is currently provided by a gasoline generator; however, there is a Pacific Gas and Electric Company (PG&E) power drop already in place onsite, and the applicant will be transitioning to PG&E power prior to the 2023 cultivation season. Conditions of approval require the applicant to provide evidence to the Planning Department that the transition occurred prior to commencing the 2023 cultivation season. The operation will be secured behind a gated road and access to the cultivation area is limited exclusively to employees. All lighting will be fully shielded to avoid adverse impact on neighboring properties and surrounding wildlife.

Existing and Proposed Development and Restructuring

As noted above, the site is currently developed with six (6) greenhouses, which are detailed below in Table 1.

Table 1: Existing Structures

Existing Structures Onsite			
Map ID	Structure	Dimensions (feet)	Size (SF)
1	Mixed Light Greenhouse	20'x75'	1,500
2	Mixed Light Greenhouse	20'x75'	1,500
3	Mixed Light Greenhouse	20'x75'	1,500
4	Mixed Light Greenhouse	20'x75'	1,500
5	Mixed Light Greenhouse	20'x75'	1,500
6	Mixed Light Greenhouse	20'x125'	2,500
Total			10,000

Proposed additions and restructuring onsite include a new 230,000-gallon hard sided water storage tank, a 2,500 SF processing, harvest storage, and drying facility, and the restructuring of the propagation area (measuring 1,000 SF), to be located just south of the cultivation area. Until the 2,500 SF processing, harvest storage, and drying facility can be constructed and utilized, a 2,400 SF greenhouse is proposed to be utilized as a drying and storage area (1,400 SF) and the propagation area (1,000 SF). Upon construction

of the processing building being complete, the 2,400 SF greenhouse will be restructured to be a 1,000 SF greenhouse to serve solely as the propagation area for the project.

Setback from Six Rivers National Forest

The proposed project includes a Special Permit to reduce the 600-foot setback from Six Rivers National Forest (SRNF)-owned lands, located immediately adjacent to the west and north (APN 524-072-001) and east (APN 524-073-002) of the subject site. Existing onsite cultivation occurs approximately 228 feet west of APN 524-073-002 to the east and 220 feet east of APN 524-072-001 to the west of the adjacent public lands per Humboldt County's WebGIS, with the existing propagation and drying greenhouse located approximately 70 feet west of APN 524-073-002 to the east and 428 feet east of APN 524-072-001 to the west of the adjacent SRNF-owned lands. The project was referred to SRNF in January 2021. SRNF staff responded on February 1, 2021 (Attachment 4), which recommended denial and indicated the project takes access over Forest Service lands, further noting "the use, cultivation and transportation of cannabis on Forest Service lands is illegal."

The adjacent public land is subject to the Six Rivers National Forest Plan (SRNFP) adopted in 1995. The project is consistent with the SRNFP because the cultivation activities will minimize impacts to biological resources and wildlife through measures to reduce potential light and noise impacts. The project will not require substantial road improvements or the removal of trees. The project will also protect fisheries and aquatic habitat on forest lands by maintaining buffers from streams, by placing controls on water withdrawals and on the storage and use of pesticides and fertilizers, and will minimize risk from wildfire by adhering to the County's Fire Safe Regulations and requiring adequate road access. The SRNFP's provisions for heritage resource protection will be met through the project consultation with Tribal Historic Preservation Officers (THPO) and avoidance of sensitive tribal cultural resources. Additionally, a Site Management Plan (SMP; discussed further below) was developed for the project. The SMP was developed to prevent and/or address poor water quality conditions and adverse impacts to water resources associated with cannabis cultivation on private land. Finally, the project is consistent with recreational use on public lands by maintaining a minimum 600-foot buffer separation from developed campgrounds and/or trails. As a result, there will not be any new erosion, wind damage, elimination of wildlife corridors, loss of scenic beauty, or reduction of quality habitat for plants and animals. Therefore, there are no existing or proposed developments within the park that would be impacted as result of the proposed project. Because the proposed project was in existence prior to January 1, 2016, is more than 600 feet from developed recreational facilities, and includes operational changes to improve the project's baseline conditions, Planning staff recommends approval of the setback reduction.

Water Resources

The site is currently developed with one (1) 5,000-gallon and five (5) 2,500-gallon hard sided water tanks totaling 17,500 gallons. The project proposes the addition of a 230,000-gallon hard tank, bringing total onsite water storage to 247,500 gallons.

The estimated annual water usage totals 150,000 gallons (14.2 gal/SF). Water for irrigation is provided by proposed and existing rainwater catchment infrastructure consisting of an existing residence, the proposed drying and processing building, and a proposed 230,000-gallon water storage tank, as detailed in Table 2 below. The average rainfall for the project area is 55.4 inches (4.6 feet), based on averaging rainfall values from 2011 through 2020 as recorded by PRISM Climate Group (*Prism Climate Data, 2022*). Impermeable surfaces such as roofs, driveways, etc. in general allow for about 620 gallons of rainwater catchment per 1,000 SF for every 1-inch of rainfall or 0.62 gallons per SF. With a total impermeable rainwater catchment area of 5,702 SF, and an average rainfall amount of 55.4 inches, the site's potential capture amount totals 195,852 gallons per year, on average. A detailed breakdown of proposed rainwater capture infrastructure and capture potentials are provided below in Table 2.

Table 2: Rainwater Infrastructure Capture Potential

Infrastructure Description	Potential Capture Area (ft ²)	Potential Average (2011-2020) Rainfall Capture Amount (gallons)
Existing Residence	1,750	60,109
Proposed drying and processing building	2,500	85,870
Proposed 230,000-gallon water storage tank	1,452	49,873
Totals:	5,702	195,852

Rainwater that is captured through the existing infrastructure will be stored within one (1) 5,000-gallon and five (5) 2,500-gallon hard sided water tanks totaling 17,500 gallons. The project proposes the addition of a 230,000-gallon hard tank bringing total storage to 247,500 gallons. The total onsite storage exceeds project needs (150,000 gallons per year) by 65% (or 97,000 gallons).

The project site has a shallow well (Permit No. 16/17-0181). The well is located in the central portion of the site, adjacent to the cultivation area and approximately 180 feet south from the nearest Streamside Management Area (SMA). The well is included as a point of diversion in the applicant's final Streambed Alteration Agreement (SAA) (Notification No. 1600-2019-0376-R1) authorized on September 13, 2019, by the California Department of Fish and Wildlife (CDFW). The SAA includes four encroachments, including two (2) points of diversion (the well and an on-stream pond) and two (2) stream crossing upgrades. Conditions of approval require the applicant to implement any remaining projects and to comply with the requirements established under the SAA. Approval of this permit does not authorize the use of this point of diversion to support commercial cannabis irrigation needs, as sufficient rainwater catchment and storage is available to serve the project and the well's potential for hydraulic connectivity to streams has not been evaluated by a licensed professional hydrogeologist, as noted in the SAA.

The Site Plan shows one (1) Class III intermittent stream and a man-made impoundment pond (not utilized for cannabis irrigation) with the associated 50-foot SMA buffers. A Wetland and Watercourse Evaluation (WWE) was performed by J. Regan Consulting in November 2021 (Attachment 3). The WWE concludes that the pond/wetland feature is completely man-made and does not appear to require a buffer under the County's Streamside Management Areas and Wetlands Ordinance (SMAWO). As noted in the WWE, "under current cannabis cultivation guidelines this feature should be regarded as a "man-made water supply reservoir that supports native aquatic species" (a Class IV watercourse)." Existing cultivation areas and ancillary infrastructure to support commercial activities (both existing and proposed) are outside of the required SMA buffers. Approval of this permit does not authorize use of the pond feature to support any commercial cannabis cultivation activities.

Furthermore, as a Tier 1 Low Risk operator (WDID 1_12CC417141), a Site Management Plan (SMP) was prepared by NorthPoint Consulting Group, dated July 2019 (Attachment 3). Twenty-five (25) unique points of evaluation were assessed that included cultivation areas, associated facilities, roads, and other developed and/or disturbed areas for discharges and related controllable water quality factors from the activities listed in the SWRCB General Order (WQ 2019-0001-DWQ). The project is conditioned to adhere to the recommendations provided within the SMP described in Appendix C (Attachment 3) which details the Best Practicable Treatment or Control (BPTC) measures and annual monitoring/treatment timelines through the life of the project.

Biological Resources

A review of California Department of Fish and Wildlife's (CDFW) Biogeographic Information and Observation System (BIOS) in January 2022 depicts no reported or mapped habitats for endangered or sensitive biological species within the project location. The nearest mapped Northern Spotted Owl (NSO) activity center is 0.74 miles away from the nearest cultivation area and nearest positive sighting is located approximately 0.53 miles away. The project as proposed is for the cultivation of 10,000 SF of mixed light cultivation occurring in six (6) greenhouses that will be equipped with blackout curtains to eliminate light from escaping the structures from a half hour prior to sunset and a half hour after sunrise. The nursery as proposed will contain low wattage LED "string lights" to provide lighting for employees and will be equipped with blackout curtains as well. As previously discussed, power is currently provided by one (1)

gasoline generator; however, there is a PG&E power drop already in place onsite, and the applicant will be transitioning to PG&E power prior to the 2023 cultivation season. The project is conditioned such that generators shall have secondary containment for fluid catchment and noise generated from generators shall not exceed 50 decibels (dB) at 100 feet from the generator or at the edge of the nearest forest habitat, whichever is closer, as required by Section 314-55.4.11 (o) Humboldt County Code. Additionally, any grading and earthwork activities will be conducted by a licensed contractor in accordance with approved grading permits. Additionally, all supplemental lighting utilized for security, cultivation, or within the nursery area will adhere to International Dark Sky Association standards for Lighting Zone 0 or 1 preventing light spillage which may impact local wildlife. Additionally, the project is conditioned to refrain from using anticoagulant rodenticides to further protect wildlife. As proposed and conditioned, the project is consistent with CMMLUO performance standards and will not negatively impact NSO or other sensitive species.

Access

Access to the site is off Staton Drive (a privately-maintained road) via Friday Ridge Road (a County-maintained road) to State Highway 299. The applicant's agent submitted a Road Evaluation Report for a 0.70-mile segment of Staton Lane, dated April 2019 (Attachment 3), that indicates the road is developed to the equivalent of a road Category 4 standard. The Report included five (5) photographs of turns along the 0.70-mile length of Staton Drive showing a historically rocked private road with a low volume of daily trips occurring. Per referral comments received from the Public Works, Land Use Division dated February 2021, any existing or proposed non-county maintained access roads that will serve as access for the proposed project that connect to a County-maintained road shall be improved to current standards for a commercial driveway, and requests the access road (Staton Drive) be paved for a minimum width of 20 feet and a length of 50 feet where it intersects the County road (Friday Ridge Road). Additionally, private road intersections onto the County road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance) as well as County Code Section 3112-5, which states "No roadway grade in excess of 16 percent shall be permitted unless it has been demonstrated to be in conformance with the County Roadway Design Manual." Where portions of the road have grades that exceed 16%, those portions must be paved and must have an exception request approved. The project is conditioned to implement all Public Works' recommendations.

Consistency with Humboldt County Board of Supervisors Resolution No. 18-43

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 Lower Trinity Planning Watershed, which under Resolution 18-43 is limited to 169 permits and 58 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 58 permits and the total approved acres would be 25.08 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).

Staff recommends that the Zoning Administrator describe the application as a part of the consent agenda, survey the audience to see if any person would like to discuss the application and, 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: Several alternatives may be considered: 1) The Zoning Administrator could elect not to hear this item and put the decision making in front of the Planning Commission. Any decision to place this matter before the Planning Commission must be done before opening the public hearing on this project; 2) The Zoning Administrator could elect to add or delete conditions of approval; 3) The Zoning Administrator 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.