

**BIG RIVER FARM, LLC**  
Record Number PLN-11892-CUP  
Assessor's Parcel Number 108-023-008

**Recommended Commission Action**

1. Describe the application as part of a public hearing.
2. Request staff to present the project;
3. Open the public hearing and receive testimony;
4. Close the public hearing and adopt the resolution to take the following actions:

*Find that the Commission has considered the Addendum to the Mitigated Negative Declaration adopted for the Commercial Medical Marijuana Land Use Ordinance pursuant to Section 15164 of the State CEQA Guidelines, make all of the required findings for approval of the Conditional Use Permit based on evidence in the staff report, and approve the proposed Big River Farm, LLC project subject to the recommended conditions.*

**Executive Summary:** Big River Farm, LLC , seeks a Special Permit to allow the continued operation of 22,000 square feet (SF) existing outdoor cannabis 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). The site is designated as Agriculture General (AG) and Timber Production (T) in the Humboldt County 2017 General Plan Update and zoned Agriculture Exclusive (AE) and Timberland Production (TPZ). The project includes a Special Permit for a relaxation of the 600-foot public lands setback requirement from Bureau of Land Management (BLM) land located 162 feet from the cultivation area. Cultivation occurs in four (4) greenhouses: GH#1 is 4,318 SF (34'x127'); GH#2 is 5,440 SF (34'x160'); GH#3 is 6,800 SF (34'x200'); and GH#4 is 5,440 SF (34'x160'). Propagation is proposed in a 30'x80' greenhouse. Processing such as drying, curing, and trimming will occur onsite in a proposed 2,400-square-foot processing facility. These types of activities must take place in a F1 Occupancy Type commercial structure with an accessible restroom and accessible parking. The owner must secure permits and complete any building of such structure within the 2-year provisional period. Alternatively, the operator may discontinue this use and process at an off-site licensed third-party facility. This requirement has been included as a condition of approval (Ongoing Requirements B.8). Artificial lighting used for the ancillary propagation nursery and processing will adhere to shielding and International Dark Sky Association standards as set forth in the CMMLUO. The applicant anticipates a maximum of five (5) employees will be required for operations. A 1,200-square-foot storage shed on the parcel is used for secondary containment for all cultivation related products as well as petroleum products. Power for the cultivation operation is provided by PG&E.

**Water Resources**

Water for irrigation will be sourced from a permitted groundwater well (Permit No. 17/18-1912) and a proposed 200,000-gallon rainwater catchment pond. According to aerial analysis using Google Earth Pro, the well is approximately 1,876 feet in elevation. The well is located on the adjacent parcel (APN 108-023-011) and is approximately 0.15-miles east from the nearest mapped watercourse which is a tributary to Sholes Creek. The elevation of the tributary is 1,820 feet. According to the Well Completion Report, the depth of the well is 300 feet and the depth to first water is approximately 73 feet, which is approximately 17 feet below the tributary. Staff does not believe the well is hydrologically connected to any surface water due to the distance and elevation difference from the closest nearby mapped surface water. The applicant anticipates 208,000 gallons of water will be required annually for irrigation. Water storage totals 83,300 gallons in hard tanks. The applicant also proposes to construct a 200,000-gallon rainwater catchment pond which will be used as a source of additional water storage.

**Biological Resources**

According to the California Natural Diversity Database (CNDDDB), there are no endangered or threatened species located on the parcel however the project is in proximity to sensitive habitat. The proposed project is located on a ridge in the North Fork Bear Creek watershed in the Mattole River drainage. A Northern Spotted Owl (NSO) activity center is mapped 0.3 miles to the southeast of Greenhouse #4. Marbled Murrelet critical habitat is located 0.5 miles to the southwest of the subject property. A portion of Jewett Creek originates in the northeast portion of the parcel. Approximately 0.5 miles downstream, the main stem of Jewett Creek is mapped as having the potential to support a winter steelhead run. The project area is outside of the required buffer for all Streamside Management Areas (SMAs) or other water courses. Conditions of approval are included based on consultation with the California Department of Fish and Wildlife (CDFW). A noise and light attenuation plan will be required prior to the use of lights and fans in the cultivation operation. Any supplemental lighting used will be shielded to meet International Dark Sky Standards. As a condition of approval the applicant shall be required to install automated curtains and light timers in the mixed-light greenhouses to ensure no possibility of light leakage that could impact adjacent sensitive species. The project utilizes grid energy, and a generator is used for domestic purposes only in cases of emergency backup power. The conditions of approval require containment for any generators used on the subject parcel. The maximum allowable generator and fan noise exposure level is 50 dB when measured from the noise source at a distance of 100 feet or at the edge of habitat, whichever is closer. Project conditions regarding mitigation of light and noise are designed to prevent direct or indirect impacts to spotted owl or marbled murrelet species into the future.

### **Access**

The project is located in the Shelter Cove area. The property is accessed via private road, 0.2 miles in length that is accessed on the southerly side of Wilder Ridge Road. The private drive trends south and west to the project site. Wilder Ridge Road is accessed from Ettersburg Road. The Department of Public Works has approved Ettersburg Road for commercial cannabis use. Travel along approximately 3.8 miles of Wilder Ridge Road is required to access the private road. The applicant has completed a road evaluation report self-certifying that the entire segment of Wilder Ridge Road and the private road are developed to the equivalent of a Category 4 road standard. The proposed project is not anticipated to generate significant additional vehicle trips or road use.

### **Public Land**

The project was referred to the Bureau of Land Management (BLM). BLM made comments and requested a boundary line survey be prepared to demonstrate that the cultivation does not encroach on federal property. A boundary survey was prepared by licensed surveyor Dylan Kolstad in June 2015 showing the property line. The nearest greenhouse is setback 162 feet from the property. The adjacent public lands are subject to the *2005 King Range National Conservation Area Resource Management Plan (RMP)*. The lands adjacent to the project site are designated Front Country Zone in the RMP, and management activities in that zone include forest stand management, fuel reduction, fire break construction, and habitat and watershed protection and restoration. Staff believes that the mixed-light operation at 162 feet from the public lands, where Northern Spotted Owl habitat exists, is not entirely consistent with the goal of the RMP. Accordingly, the applicant has proposed to utilize the greenhouse closest to the public lands as an outdoor (light-dep) greenhouse only. Without mixed-light cultivation methods in this area, and with the requirement to add automated blackout curtains and light timers, staff does believe that the project would be consistent with the RMP because the cultivation activities will protect fisheries and aquatic habitat on forest lands by restoring and maintaining buffers from streams and by placing controls on the storage and use of pesticides, rodenticides and fertilizers, and minimizing risk from wildfire by adhering to the County's Fire Safe Regulations and the requiring adequate road access. The RMP's provisions for protection of heritage resources will be met through the project consultation with Tribal Historic Preservation Officers and avoidance of sensitive tribal cultural resources. The project is consistent with recreational use on public lands by maintaining a minimum 600 buffer separation from developed campgrounds and trails.

This project was originally noticed for a hearing in front of the Planning Commission in April 2019. Based on concerns from BLM, CDFW and neighboring property owners, the applicant decided to pursue retirement of this existing operation and relocate it under the RRR provisions of the Ordinance. A site in Honeydew was selected and the Planning Commission approved the relocation site as part of a larger relocation effort on October 3, 2019 (Honeydew Ranch, Application 12256). This application was appealed to the Board of Supervisors and the Board of Supervisors did not approve the relocation proposal. The applicant has since been unable to secure an alternative relocation site and is seeking approval of the existing operation.

### **Tribal Consultation**

The project is located in the Bear River Band Rancheria and Sinkyone Aboriginal Ancestral Territories. A Cultural Resources Investigation was conducted for the proposed project in June 2018 by William Rich and Associates. No cultural, historic, or archeological resources were identified on the subject property. Correspondence was conducted with the Native American Heritage Commission (NAHC), a representative of the Bear River Band of the Rohnerville Rancheria, and a representative of the InterTribal Sinkyone Wilderness Council. The NWIC indicated no records of any previous studies and no responses from the native tribes or other interested parties were received. The Bear River Band referral response stated the Tribal Historic Preservation Officer (THPO) was not aware of any sensitive cultural resources on the subject parcel. A comprehensive field survey was performed over the entire proposed cannabis cultivation area and much of the 600-foot buffer with the parcel. As a condition of approval, the inadvertent discovery protocol to protect cultural resources has been added to the proposed project.

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).

**RECCOMENDATION:** 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).

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