

Recommended Planning Commission Action

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

(a) Find that the Planning Commission considered the Mitigated Negative Declaration prepared for the Blocksburg Family Farm, LLC. project, together with all comments received during the public review process, pursuant to Section 15074 of the State CEQA Guidelines;

(b) Make the findings in support of the Mitigated Negative Declaration;

(c) Adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program;

(d) Make all the required findings for approval of the Conditional Use Permit; and

(e) Approve the Blocksburg Conditional Use Permit as recommended by staff and subject to the recommended conditions.

Executive Summary: A Conditional Use Permit for 6.39 acres of outdoor cultivation including 16,800 sf of existing cannabis authorized under interim permit, on a parcel of approximately 1,221 acres. The proposed six acres of new will comprise of three acres full term outdoor and three acres of Light Deprivation, and with ancillary facilities, will be developed in four phases over four years. Water would be provided by an onsite well, a 2.2-million-gallon rain catchment pond, and a one-million-gallon rainwater catchment tank. Total irrigation demand by Phase IV is anticipated to be approximately 3.1 million gallons per year, with the rain catchment pond being the primary source of water by Phases II and III. The project includes 8,000 sf of proposed and 2,000 sf of existing ancillary nursery space. Processing would occur onsite in a proposed 7,200 s.f. multi-use building in the footprint of a burned down barn. No power is required for the cultivation itself but for the propagation and processing activities. Power is proposed to be provided principally by a generator for Phase I and Phase II and staff is recommending a condition of approval to require that all new propagation facilities and drying and processing facilities be fully solar powered prior to operation (COA No. 22). By Phase III, a solar array would provide the power, with generators retained for backup use only. Phase I of the project would require approximately six employees. Phases II & III would require a maximum of twenty-five employees and incorporates a vanpool.

Project Phasing

Areas cultivated and facilities constructed would be carried out in four phases, each phase representing one year (i.e. one growing cycle), as follows:

Phase I

- Improve and rock access roads
- Bring in B&Bs for employee use
- Install (or complete install) 2,200,000 gallon rainwater catchment pond
- Install 2, 2,500 gallons tanks
- Build and plant new propagation greenhouses
- Till, amend, and plant - full sun only (1 or 2 acres new and 16,800 sq. ft. existing)
- Set up irrigation system for new cultivation
- Establish Compost Area
- Complete septic design and install system
- Build Multi-Use Building (drying/processing/storage)
- Install propane tank

Phase II

- Complete irrigation system
- Use 2,200,000 gallon rainwater catchment pond
- Build and plant remaining propagation greenhouses
- Plant permitted acreage (up to 6.39 acres)
- Install light deprivation infrastructure

Phase III

- Install 1,000,000 gallon rainwater catchment tank
- Install/Activate Alternative Energy System*
- Review/Refine Alternative Energy System performance

Phase IV

- Implement all long-term operational procedures

Cultivation

Existing Cultivation

The existing development on the project parcel is limited to one full term garden (16,800 sq. ft. canopy with 850 plants in beds), two (2) 2,500-gallon water tanks, one 20-foot by 80-foot propagation greenhouse, one (1) 8-foot by 20-foot steel shipping container, one (1) well with solar collection panels and 2,500-gallon tank. An existing shipping container is used for product storage and for overwinter storage of cultivation materials. The existing greenhouse doubles as a drying space.

Cultivation – Proposed Full Term Outdoor (3 acres)

Phase I of the project includes planting one to two (1-2) acres of full-term outdoor plants. All plants will be planted directly in the ground in early Summer and harvested in late Fall. Drip irrigation systems will be installed to serve the additional acres of full term outdoor. Phase II ongoing will see up to three (3) acres of full term outdoor planted and drip irrigation completed.

Cultivation - Proposed Light Deprivation (3 acres)

There will not be any light deprivation cultivation during Phase I. During Phase II and ongoing, up to three (3) acres of light deprivation outdoor will be tilled and fertilized with plants in the ground by late March or early April. The light deprivation structures are composed of pvc hoops that will support light deprivation tarps. The blackout tarps will be 'panda' tarps that are white on the outside and black on the inside; these are pulled by hand. The first harvest from the light deprivation cultivation is anticipated in early July, with new plants in the ground by late July; the second harvest is anticipated in late October. All tarps will be removed and stored in the Multi-Use Building or in an additional storage container for the winter.

Water

Source and Storage: The project currently has two (2), 2,500 gallon hard-sided plastic tanks (polyethylene); these tanks serve as water transfer and storage for the existing 16,800 sq. ft. full term garden. During Phase I, the project will add two acres of new full sun cultivation, and an additional two (2) 2,500-gallon plastic tanks. Additional water storage will be provided by a 2,200,000 gallon rainwater catchment pond constructed for Phase II, and a 1,000,000 gallon rainwater catchment tank constructed for Phase III. The pond construction will result in a disturbed area of 61,756 sq.ft. with the pond surface area to be 36,500 sq.ft. The pond has been engineered and includes an overflow design and an erosion control plan. The pond will include one to two (1-2) wildlife escape ramps. The steel tank has a diameter of 167 feet and a footprint of approximately 21,904 sq. ft. The large diameter and sloped roof design will

allow catchment of rainwater and provide a secure and safe (for animals and from leaks/collapse) water storage option for the project.

Water is presently sourced from an existing, onsite non-diversionary well that has a production rate of 28 gallons/minute, as established in a recent drawdown pump test (test completed on May 13, 2020). A July 2021 geologic study, Hydrologic Isolation of Existing Well from Surface Waters, determined that connectivity between the well and surface waters is highly unlikely. The pump test and the geologic study are both attached to the IS/MND.

The 2.2 million gallon rainwater catchment pond will be constructed during Phase I, and depending on the timing of project approval may be constructed prior to Phase I growing season, or after Phase I growing season. The pond will collect water over the winter (between Phase I/II) and be ready for use during Phase II. The two (2), existing 2,500 gallon hard-sided plastic tanks (polyethylene) serve as water transfer and storage for the existing 16,800 sq. ft. full term garden. During Phase I, the project will add an additional (2) 2,500 gallon plastic tanks. During Phase III, the project will add the steel 1 million gallon rainwater harvest/storage tank. The tank will collect water over the winter (between Phase II/III) and be ready for use during Phase III. The total volume of water in storage at full build out (Phase III) will be 3,210,000 gallons.

Water Use: At full project operation, water use is estimated to be 3,157,826 gallons of water annually. The 2.2 million-gallon rainwater catchment pond will be in place and will be used as a primary irrigation water source for Phase II and Phase III. Water storage capacity is projected to exceed use by 52,174 gallons per year, not accounting for possible additional precipitation that may partially refill the pond and steel tank after partial drawdown.

Water Use Per Phase Summary

Phase	Gallons/Yr*	Water Source
I – 1.39 acres cultivation	674,858	Existing well
(I – 2.39 acres cultivation alt	1.15 million	Existing well)
II – 6.39 acres cultivation	3.2 million	2.2 million-gallon catchment pond (well as back-up)
III – 6.39 acres cultivation	3.2 million	2.2 million-gallon catchment pond, and 1.0 million-gallon catchment tank (well as back-up)

*includes employee personal use

California Department of Fish and Wildlife asked that the above sequence of phased precipitation catchment facilities construction be made a condition of approval. Since this is already part of the applicant's plan, the applicant does not mind that it be made a condition. This is reflected in proposed Condition of Approval No. 22.

Governor's Drought Proclamation and Executive Order

On March 28, 2022 the Governor of California issued Executive Order N-7-22 (EO) limiting the authority of cities and counties to permit new wells or alterations of existing wells, during the drought emergency, in certain situations. This includes new, or alteration of existing, wells utilizing more than 2 acre feet per year without first determining that extraction of groundwater is not likely to interfere with existing nearby wells nor cause subsidence that would adversely impact or damage nearby infrastructure. The proposed well, during the first phase, would use over this amount. After review of the EO and of the prior groundwater analysis of the project site, Lindberg Geologic Consulting, prepared an analysis contained in *Applicability Executive Order N-7-22 to Existing Permitted Well (4/7/2022)*, Attachment 8 of this staff report, concluding that based on the lack of nearby wells and infrastructure, the well and use of the well is consistent with this order.

Biological Resources

Several biological resources assessments, appropriately-timed botanical surveys, an aquatic resources assessment, wetland delineations and a special-status species survey were conducted for the proposed project by qualified biologists with the CEQA consulting firm, NRM Corporation, from June 2019 to September 2021. The results of these surveys were incorporated into the CEQA IS/MND that was prepared and circulated to the public and agencies in November 2021. Seven mitigation measures are recommended to ensure no significant adverse impact on biological resources. These relate to preconstruction surveys, a posted speed limit, and worker-awareness training for Western Pond Turtle; setbacks from a pond and wetland; preconstruction surveys for migratory birds, replanting, enhancement and protection of a special-status plant, a setback for a different seasonal wetland that may be host to special-status plants, and a plan to replace special-status grasses. In addition to inclusion in the Mitigation Monitoring and Reporting Program (MMRP), these measures are listed as recommended **Conditions of Approval Nos. 25 through 31**. The biological assessments, the CEQA IS/MND Biological Resources chapter, and the proposed mitigation measures were reviewed by staff of the California Department of Fish and Wildlife (CDFW).

CDFW staff requested that the County add a condition of approval that the Project not proceed past Phase 1 of development until after the 2.2-million gallon rainwater catchment pond is built, and that the additional one million gallon rainwater storage tank be completed within two years of full cultivation buildout. These measures had already been incorporated into the project prior to circulation of the CEQA IS/MND, and added to the revised Cultivation and Operations Plan. CDFW made the request as an added assurance. The applicant does not have an issue with this. The CDFW request has been added as **proposed COA No. 23**.

All potentially-significant biological impacts are resolved with the seven proposed measures/conditions.

Cultural Resources

Cultural resources surveys were conducted in 2017, 2019, and 2021 on separate areas of the project parcel, covering a total area of 88.2 acres. This includes all areas, and a buffer, of potential project development. The 2017 survey identified one potentially significant prehistoric resource, but was located outside the proposed project area and would not be impacted. Two isolated artifacts were found within the existing cultivation area. In order to avoid disturbing identified resources, the project proponent modified the project area. Ongoing protection will be provided with implementation of an Environmentally Sensitive Area (ESA) Action Plan, as well as with compliance with standard Inadvertent Discovery Protocols. The THPO of the Bear River Band accepted these findings and recommendations. These were included in the CEQA IS/MND as Mitigation Measures Cultural Resources 1 and Cultural Resources 2, are part of the MMRP, and are included among the list of proposed conditions of approval (**COAs Nos. 32 and 33**).

Under the provisions of AB 52, consultation offers were sent to the tribes identified by the Native American Heritage Commission as being traditionally associated with the project site. These included the Bear River Band, Big Lagoon Rancheria, Hoopa Valley Tribe, Round Valley Reservation/Covelo Indian Community, and Cher-Ae Heights. None of the tribes requested further consultation under AB 52, and the County's responsibilities under AB 52 were complied with and concluded.

Roads

The project site is accessed by Alderpoint Road, which is a County-maintained Road developed to a road category 4 standard. From Alderpoint Road the property is served by 3.2 miles of privately-owned, unnamed driveway that provides ranch access to one owner – the owner of the project site. The driveway was surveyed by engineer Steven Nesvold of Omsberg and Preston who prepared a Road Evaluation Report (Appendix F of the IS/MND) for this driveway. The conclusion is that the road and driveway network leading to the cultivation area on the subject parcel (APN 217- 215-001) will be

equivalent to Road Category 4 with routine annual maintenance, given the adequate distribution of turnouts and low ADT.

In response to early referrals, County Public Works requested that the private driveway intersection with Alderpoint Road be maintained in accordance with the Sight Visibility Ordinance, and improved with a paved surface for a minimum width of 20 feet and length of 50 feet at the intersection. This is included in the list of recommended conditions (**COAs Nos. 13 and 14**).

During Phase I, the employees are anticipated to number approximately six (6), with six round trips per day, and will utilize a carpool parking area before entering the project parcel. During Phases II and III, the project will use a van or vans, per the mitigation measure described below, to pick up the 20 to 25 employees from their place of residence, with two round trips. Additional and less frequent traffic will come from garbage/recycling removal, propane refilling, general supply, and clone/potting soil pick up twice a year. The estimated maximum daily average during Phase I is 6.25 round trips. The estimated maximum round trips during Phases II/III, with the vanpool mitigation in place, is 2.25 round trips.

Based on the background and analysis of potential transportation impacts provided in the IS/MND's Transportation section, the project does not meet the threshold 110 trips per day above which the State indicates a Vehicle Miles Travelled (VMT) analysis would be required. However, since the County has considered but not yet adopted its own VMT thresholds, the CEQA analyst opted to utilize the County's draft VMT methodology, in order to avoid the lack of a VMT analysis of employee trips as being a case of ongoing speculation. Based on this, the analysis found that inclusion of a mitigation measure requiring an employee van will result in a 92% reduction in trips and assure there will be no significant transportation impact. This measure is included in the CEQA IS/MND and Mitigation Measure Transportation 1, is included among the Commission's draft findings, in the MMRP, and as a recommended condition of approval (**COA No. 34**).

Power

The project will meet or exceed established Humboldt County (Ordinances 2559 & 2599) and upcoming Department of Cannabis Control limitations on greenhouse gas emissions (§8203(g)(1-4) and §8305(a) and (b)) and generators (§ 8306) by installing a solar electric system, integrated passive heating and cooling design, and support from a net zero emissions generator. To reach the desired net zero emissions, the system will be designed in stages.

At this time, all supplemental lighting and fans for the existing cultivation are for propagation only and are run with a gasoline generator kept in a nearby shed. During Phase III the existing propagation greenhouse will have a solar electric collection system with battery storage. The solar will provide all energy needs for the greenhouse and the generator will be discontinued and moved offsite. Power is proposed by the applicant to transition from gas generators to solar power at Phase III, which is the 3rd year of operation, per the Cultivation and Operations Plan (11/5/2021). All generator support will be removed by 2025 under the applicant's proposal. While the IS/MND documents that the use of these generators is not a significant impact under CEQA, the Planning Commission has had a practice or requiring new cultivation under the CMMLUO to be supported by renewable energy sources and accordingly staff is recommending a condition of approval to require that all new propagation facilities and drying and processing facilities be fully solar powered prior to operation (COA No. 22). As there are no lights or fans associated with the cultivation itself the energy needs are strictly for propagation and processing. The applicant has indicated that it would be economically infeasible to develop the first two phases with renewable energy resources and is requesting that the Planning Commission allow for generator power to be utilized for the drying and processing building for the first 2-3 years of operation while the alternative energy system is being developed. If the Planning Commission considers approving such an allowance COA No. 22 can easily be amended to apply only to the propagation facilities or to require a more specific timetable for conversion to renewable energy for the drying and processing facilities.

Environmental Review

Environmental review for the proposed project included the preparation of an Initial Study/Mitigated Negative Declaration (IS/MND) pursuant to the California Environmental Quality Act (CEQA) Statute (Public Resources Code 21000–21189) and Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000–15387). The IS/MND was initially circulated from November 3, 2021, to December 3, 2021, at the State Clearinghouse. The Mitigated Negative Declaration concluded there are no impacts that could not be mitigated, and nine (9) mitigation measures were included addressing areas of biological resources, transportation, and cultural and tribal cultural resources. Comments were received from two agencies – the California Department of Cannabis Control, and California Department of Fish and Wildlife. One late comment was received from a member of the public. The comment letters are attached to the staff report and are summarized and addressed in the Findings.

Following closure of the 30-day CEQA review period on the Nov-Dec 2021 IS/MND, and after noticing of the Commission hearing and preparation of the staff report, the day before the noticed March 3, 2022 Commission hearing, an 18-page comment letter with 38 pages of attachments on the draft MND was received from an attorney, Jason Holder, on behalf of Citizens for a Sustainable Humboldt and the Northcoast Environmental Center. One of the attorney's comments focused on an item of the CDFW comment letter in relation to the special-status plant, *Danthonia glaberrima*, a native prairie grass. The CDFW comment did not identify the loss of *Danthonia* as a significant impact, but suggested that “an argument could be made” that it is. CDFW further stated that they did not desire for the IS/MND to be recirculated on this basis, only that mitigation already proposed be modified to include restoration of the area of *Danthonia* that would be affected. Based on the CDFW comment, a plan was prepared by the project biologist in consultation with CDFW staff, the *Sensitive Natural Community Mitigation and Monitoring Plan: Blocksburg Family Farms, December 2021*. Implementation of the plan had been incorporated into an existing biological resources mitigation measure presented in the March 3, 2022 staff report to the Commission.

While CDFW staff expressed appreciation for the applicant's cooperation in postponing taking the application to hearing while a comprehensive plan for restoration of *Danthonia* could be prepared, the attorney's late comment asserted that the disturbance to *Danthonia* is a significant impact cumulatively, and that it must be described as such in the analysis. Out of caution, County staff, the CEQA document preparer, and the applicant agreed that the draft IS/MND should identify the loss of *Danthonia* prairie grass as potentially significant at a cumulative level, and to recirculate the IS/MND with the proposed restoration plan as a separate mitigation measure. The restoration plan is referenced in the project's Mitigation Monitoring and Reporting Program (MMRP) as Biological Resources MM # 7, and the complete plan is included in the IS/MND appendices as Appendix “O.”

The IS/MND was revised as described above with the additional mitigation measure (ten total mitigation measures) and recirculated to the State Clearinghouse, local agencies, and advertised in the newspaper for a 30-day public review period, March 17, 2022 through April 18, 2022. During the CEQA comment period, only one comment was received, from the Regional Water Quality Control Board (RWQCB). The RWQCB noted that the increase in cultivation over one acre will increase that department's level of monitoring, and they stated concurrence with the wetland buffers and water quality compliance assuming wetland delineations were adequate. CDFW reviewed the delineations and found them acceptable.

On April 20, 2022, after the close of the CEQA comment period and one day before the scheduled public hearing of April 21, 2022, Jason Holder, on behalf of Citizens for a Sustainable Humboldt and the North Coast Environmental Center submitted a follow up comment. In this comment Mr. Holder states that staff is ignoring his previous comments on the adequacy of the water supply and the adequacy of the access road. These comments are not being ignored as these issues are well addressed in the IS/MND and the staff report. As noted in the IS/MND and further in the staff report, the well will be used only for the first year at which point rainwater catchment will be the primary irrigation source, and the well has

had two pump tests completed. One upon drilling of the well, and then during May of 2020 a drawdown pump test was completed that showed that a static water level of 100 feet was obtained at 28 gallons per minute which is more than sufficient for the irrigation needs. Mr. Holder asserts that the pump tests are not consistent with County regulations and guidance documents for well pump tests however those regulations and guidance documents are not applicable to agricultural wells (see Attachment 10). Mr. Holder also asserts that the long-term sustainability of the well may be questionable however this comment ignores the fact that the long-term primary irrigation needs will be met through rainwater catchment ponds. Also as noted and discussed in the staff report and the IS/MND the access road is a county-maintained road category 4. The driveway off of the county road serves only the subject parcel and is not required to meet standards applicable to roads, however it has been determined by a licensed engineer to be functionally appropriate for the proposed agricultural activities. While this access driveway is not a road, it should be noted that even if it were the State Fire Safe regulations exempt roads used solely for agriculture (see Attachment 11).

RECCOMENDATION: Based on a review of Planning Division reference sources and comments from all involved referral agencies and responses to comments on the IS/MND, Planning staff believes that the Mitigated Negative Declaration that was circulated from March 17, 2022 to April 18, 2022 complies with the provisions of CEQA, that the findings in support of the MND can be made, and that the applicant has submitted evidence in support of making all of the required findings for approval of the Conditional Use Permit.

ALTERNATIVES:

1. Staff prepared a thorough environmental analysis which included the preparation of an IS/MND pursuant to the CEQA Statute (Public Resources Code 21000–21189) and Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000–15387). 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 potentially significant unmitigable impacts.
2. The Planning Commission could elect not to approve the Conditional Use Permit, or to require the applicant to submit further evidence, or modify the project. Modifications may cause potentially significant impacts, additional CEQA analysis and findings may be required. These alternatives could be implemented if the Planning Commission is unable to make all of the required findings. Staff has stated that the required findings in support of the proposal have been made. Consequently, Staff does not recommend further consideration of either alternative.