

Recommended 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 take the following action:

Adopt the resolution finding that the Commission has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) pursuant to Section §15164 of the State CEQA Guidelines, making all of the required findings for approval of the Conditional Use Permit and adopt the Resolution approving the Lost Coast Collective, Inc., project subject to the recommended conditions.

Executive Summary: The applicant is seeking a Conditional Use Permit for 22,000 square feet of existing commercial cannabis cultivation of which 18,500 square feet is mixed light cultivation and 3,500 square feet is outdoor cultivation. The mixed light cultivation area achieves three harvests annually and the outdoor cultivation area achieves one harvest annually. The project is supported by 2,180 square feet of propagation space. Historically cultivation has occurred in four locations, however, the applicant will be authorized to relocate all 22,000 square feet of cultivation and associated infrastructure to the conversion area on the property. The applicant submitted a *Remediation Plan*, prepared by Timberland Resource Consultants, which outlines the remediation recommendations for each historic cultivation site. A condition of approval will require the applicant to complete all remediation activities outlined in the *Remediation Plan* and provide a Completion Report to the Planning Department for review (**General Condition A.12**). Compliance with the remedial actions will also be assessed at the applicants annual inspection.

Processing

All processing occurs onsite in the applicants barn. The barn, in its' current configuration, cannot be used for trimming and/or packaging. 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 (**General Condition A.7**). The applicant is proposing to construct a 1,600 square foot commercial processing structure.

Energy Resources

Energy for the project is supplied by a solar array, hydropower system, and three generators. The applicant maintains a 20-kW solar system located on the barn which is utilized for drying and harvest storage. The solar array also provides energy for two of the mixed light greenhouses and the applicants residence. The barn is also equipped with a 4-kW hydroelectric power wheel which supplements the solar array in the winter months. There are three generators onsite consisting of two 45-kW generators and one 25-kW generator. One generator is utilized as a back-up energy source for the barn, and the other two generators are located near the mixed light greenhouses and the western-most drying shed.

The applicant has proposed to install a 65-kW solar array at the western most cultivation area to power the existing mixed light greenhouses, drying shed, and the proposed commercial processing facility within the next five years. A condition of approval for the project will require the applicant to obtain the proposed solar system, or an alternative renewable energy source, by January 1, 2026 (**General Condition A.8**).

Water Resources

Irrigation water is sourced from an existing permitted well and two registered points of diversions from unnamed springs tributary to Seely Creek and Redwood Creek. The projected annual water usage totals 156,980 gallons (7.13 gal/SF) and water storage onsite totals 87,850 gallons. An ongoing requirement for the project requires the applicant to forebear from the use of the spring diversions from April 1st to October 31st (**Ongoing Requirement B.8**). The applicant is also proposing to construct a 500,000-gallon rainwater catchment pond.

The applicant submitted a *Well Completion Report* which states that the well is drilled at a depth of 140 feet and the depth of the static water level was measured at 25 feet. A one-hour pump test was conducted on April 19, 2016, which recorded an estimated yield of 15 gallons per minute. The applicant also submitted a *Hydrological Isolation of Existing Well from Surface Waters* completed by David N. Lindberg, a Certified Engineering Geologist (CEG). The report concludes that based on the distances from the nearest perennial surface waters, the depth of the producing zone of the well, its slope position relative to adjacent water courses, the subsurface stratigraphy, and geologic structure, it is the professional opinion of the CEG that the well is not hydrologically connected to surface waters, wetlands, or nearby domestic wells.

The Division of Environmental Health requested that permittee be required to provide portable toilet(s) to cultivation areas or provide an approved means of sewage disposal to serve the needs of the project. This recommendation has been included as a condition of approval (**General Conditions A.9**).

Wetlands

A review of the National Wetlands Inventory shows wetlands as being mapped along the Class II watercourses on the subject parcel. The project was referred to the U.S. Army Corp of Engineers in December of 2017 which recommended that the applicant submit a Wetland Delineation prepared by a qualified professional. The applicant submitted a *Aquatic Resource Delineation* prepared by Jack Henry of Timberland Resource Consultants which sampled two of the three cultivation areas. The report concluded that although water was pooling at the bottom of the hillslope and hydrophytic vegetation was present, the two sampling locations lack hydric soil or other wetland indicators. The sampling locations do not meet the three wetland parameters and therefore do not meet the wetland definition. The project as proposed is not anticipated to impact Waters of the United States and will not result in the net loss of wetlands.

Included in this application is a Special Permit for restoration efforts within the Streamside Management Area. Upon approval of this permit application, the applicant will be authorized to relocate the northern most cultivation area, as this cultivation area is located in the Streamside Management Area of a Class II watercourse. A condition of approval will require the applicant to remediate and restore this cultivation area as described in the *Mitigation Report of the Site Management Plan* (**General Condition A.10**).

Biological Resources

A review of the California Natural Diversity Database (CNDDDB) found that no species of special concern have been mapped on the subject parcel. However, there is a mapped Northern Spotted Owl activity center within one mile southeast of subject parcel. The project was referred to the California Department of Fish and Wildlife (CDFW) who recommended the applicant assume presence and implement noise and light attenuation measures. An ongoing requirement for the project will require the applicant to maintain cultivation related noise at or below 50 decibels as measured from the edge of the clearing or 100 feet, whichever distance is closer (**Ongoing Requirement B.1**). The applicant will also be required to adhere to international dark sky standards (**Ongoing Requirement B.2**).

The applicant submitted a *Site Management Plan* which includes provisions to prevent sediment

discharge to surface waters. The *Site Management Plan* identified 24 water courses consisting of both Class II and Class III watercourses tributary to Seely Creek, Redwood Creek, and the South Fork Eel River. The referral response provided by CDFW stated their concern that the project may impact fish, reptile, and amphibious species of special concern. All project components will adhere to the required Streamside Management Area setback of 100 feet from Class II watercourses and 50 feet from Class III watercourse. The applicant has entered into a *Lake and Streambed Alteration Agreement* with CDFW which will require the applicant to improve 11 stream crossings. The applicant will be required to adhere to the provisions within the LSAA (**Ongoing Requirement B.17**).

The project is located in the South Fork Eel Planning Watershed which under Resolution 18-43 is limited to 730 permits or 251 acres, whichever occurs first. With the approval of this project the total approved permits in this Planning Watershed would be 296 permits and the total approved acres would be approximately 80.56 acres of cultivation.

Timber Conversion

The subject parcel maintains a less than three-acre conversion exemption which was accepted by CAL FIRE prior to December 31, 2015. The conversion was not completed to facilitate cultivation activities; therefore, the applicant is not required to submit a restocking plan for the use of this area. However, full remediation of the historic cultivation areas has been included as a condition of approval.

Tribal Cultural Resource Coordination

The subject parcel is located in aboriginal territory of the Bear River Band of Rohnerville Rancheria and the Intertribal Sinkiyone Wilderness Council. The project was referred to both tribes and the Northwest Information Center. The Bear River Band requested additional information be submitted regarding the less than 3-acre conversion that was approved for the subject parcel and any cultural resource survey efforts. The applicant submitted a *Cultural Resource Investigation Report* prepared by Mark Arsenault of Arsenault & Associates, dated August 27, 2019. The report concluded that the project will not adversely impact cultural, Tribal, or historic resources with the existing footprint. This report was submitted to the tribe for review. The survey did not encompass the location of the less than 3-acre conversion, however, the conversion area is not within the purview of this project as it will not be used for cultivation purposes or host any ancillary infrastructure related to the project. The applicant is required to adhere to the inadvertent discovery protocol (**Ongoing Requirement B.37**).

Access

Access to the site is provided by Road Z, a private access road which takes access from two private access roads, Elk Ridge Road and Perry Meadow Lane. The applicant submitted a *Road Evaluation Report* for the three private access roads which were self-certified by the applicant as being developed to the equivalent of a Category 4 road standard. The applicant is an active member of the "Share the Road" Road Maintenance Association. Provisions have been made within the applicants *Site Management Plan* to improve the access road to prevent discharge of sediment to nearby watercourses. A condition of approval will require the applicant to implement the work required for the 90 Unique Points identified within the *Site Management Plan* (**General Conditions A.10**).

The project was referred to the Department of Public Works Land Use Division which requested two conditions of approval be added to the project which would require the applicant to improve and maintain visibility where Perry Meadow Lane intersects with the county-maintained road, Briceland Thorne Road and that the applicant be required to improve the location where Perry Meadow Lane intersects with Briceland-Thorne Road. These recommendations have been included as conditions of approval for the project (**General Conditions A.11**).

Fire Safety

The subject parcel is located Briceland Fire Protection District (BFPD) and the State Fire Responsibility Area. The project site is located in an area designated as having high fire hazard severity. The project was referred to the BFPD, no response was received. CAL FIRE provided their standard comment requesting the applicant implement the minimum Fire Safe standards. The *Site Plan* shows the required SRA turnaround, 2,500-gallon water tank dedicated to fire suppression, and all project components adhere to the setback of 30 feet from all property lines.

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.

RECOMMENDATION: 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.

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.