

**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, approve the Consent Agenda thereby adopting the Resolution to take the following actions:

*Find that the Commission has considered the Addendum to the adopted Mitigated Negative Declaration (MND) for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) as described by Section 15164 of the State California Environmental Quality Act (CEQA) Guidelines, make all of the required findings for approval of the Conditional Use Permit and adopt the Resolution approving the Larabee Valley Family Farms, LLC Conditional Use Permit as recommended by staff subject to the recommended conditions.*

**Executive Summary:** Larabee Valley Family Farms, LLC seeks a Conditional Use Permit to allow the continued operation of an existing 15,000-square-foot (SF) outdoor cannabis cultivation operation in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, CMMLUO. The site is designated as Agricultural Exclusive (AE), Residential Agriculture (RA), and Timberland (T) in the Humboldt County 2017 General Plan Update and zoned Agricultural Exclusive (AE) and Timberland Production (TPZ). The cannabis cultivation operation consists of two 7,500-SF outdoor cannabis cultivation areas, totaling 15,000 SF, on two graded flats occurring on a 147-acre (assessed) parcel. All cannabis cultivation on the parcel would be cultivated in 10 existing and three proposed light-deprivation greenhouses. Appurtenant nursery space would be 1,500 SF in two proposed greenhouses. Minor grading is required for the addition of two greenhouses. Typically, only one harvest will occur, but occasionally two harvests may occur from a subset of the greenhouses for a growing season that extends from March through October. The parcel is developed with three existing storage buildings totaling 900 SF. Portable toilets and handwashing stations supplied by B&B are being used onsite until a permitted onsite septic completes design. All existing buildings and historic grading shall be permitted as a condition of approval (**COA #A6-8**). Harvesting and drying will occur in two existing 400-SF structures totaling 800 SF, and processing would occur offsite at SISU Extracts in Eureka. No employees are utilized on the farm. Power is provided onsite by existing solar power and an emergency backup generator.

The property is fully fenced and accessible only through two locked gates. Each gate location is equipped with motion sensors which alert to handheld walkie-talkies. The property is also equipped with motion-activated lights and game cameras. The applicant also has a Special Permit for 8,000 SF of outdoor cannabis cultivation on the adjacent parcel to the west (APN: 210-250-009; PLN-13006-SP), on the other side of Hidden Valley Road.

The project site is located in the Van Duzen Planning Watershed, which under Resolution 18-43 is limited to 425 permits and 146 acres of cultivation. With the approval of this project, the total number of approved permits in this planning watershed would be 108, and the total approved acres of cultivation would be 37.16.

**Water Resources**

As reported in the December 2019 Cultivation and Operations Plan (**Attachment 3a**) or shown on the December 2021 Site Plans, total water storage is 137,000 gallons in four 3,000-gallon tanks and one 125,000-gallon rain and seep-fed catchment pond lined with plastic. The seep flow from a historic cutbank is considered as a very minor input to the pond, and plans are to redirect the seep flow to a French drain, allowing full return infiltration. A Rain Catchment Estimate prepared by the applicant in December 2021 indicates the 3,000-SF pond surface area can intercept 126,000 gallons in a typical year. In the winter months, overflow water from the catchment pond is pumped into storage tanks and refilled from the pond as needed throughout the spring. The catchment pond is off stream, approximately 350

feet from a seasonal Class III stream management area, and is capable, along with existing and planned addition of 50,000 gallons of additional water storage tanks, of providing all irrigation needs, as reported to the North Coast Regional Water Quality Control Board annually.

Estimated maximum annual water usage is approximately 120,000 gallons—one cultivation area estimated to receive 48,000 gallons and the second area receiving 72,000 gallons. There is one historic point of diversion on the applicant's parcel, with a Right to Divert and Use certificate (H100396) with the California Division of Water Rights for a diversion from an unnamed Class II tributary near the Little Van Duzen River (shown on December 2021 Site Plan). Although this diversion has not been used for irrigation purposes during the past two years, the applicant retains water rights, should they choose to use them, to divert for irrigation use on the two adjacent parcels (APNs: 210-250-031 and 210-250-009) an amount up to 0.50 acre-feet (163,000 gallons) per year (January 1 to December 31), subject to any more restrictive diversion season specified by the current version of the State Water Resource Control Board's (SWRCB's) Cannabis Policy.

Based on the total disturbance area, slopes of disturbed areas, and riparian setbacks, this project site falls within a Tier 2 Low Risk category of the SWRCB Cannabis Cultivation Policy Order WQ 2019-0001-DWQ (General Order). In accordance with properties that fall into Tier 1 or 2 of the General Order, a Site Management Plan (SMP) was prepared by Pacific Watershed Associates in October 2021 for the applicant's cultivation projects on the two adjacent parcels (**Attachment 3b**). Abiding by the sediment discharge best practicable treatment and control measures detailed in the SMP is a condition of approval (**COA #A9**).

In addition, abiding by the conditions in the Final Lake or Streambed Alteration Agreement (LSAA) No. 1600-2019-0873-R1 with the California Department of Fish and Wildlife (CDFW) (**Attachment 3c**) is required by the SWRCB General Order and all CMMLUO projects (**COA #B17**). The Final LSAA allows for 15 encroachments on this parcel (APN: 210-250-031) and the adjacent parcel to the east under the same ownership (APN: 210-250-009)—three encroachments for water diversion for commercial irrigation purposes and 12 other proposed encroachments to upgrade failing and undersized stream crossings. Two of the three diversions mentioned in the LSAA are on this project's parcel, and, as mentioned above, the stream diversion is no longer in use on this project's parcel. The spring diversion for the water storage pond was included in the Final LSAA with a diversion season confined to November 1 to March 31. The applicant shall monitor all water use from the spring diversion to the pond, the pond, and the storage containers as a condition of approval (**COA #A10**).

The December 2021 Plot Plan shows several unnamed Class III headwater tributaries to an unnamed Class II drainage that flows into Butte Creek and Little Larabee Creek. The 2021 Revised Plot Plan indicates all associated setback distances exceed the Streamside Management Area buffer distances to seasonal and perennial streams to all disturbed soil and cultivation areas to the nearest drainage.

### **Biological Resources**

No Biological Assessment has been prepared for the project; however, no tree clearing is proposed, only an emergency backup generator is used onsite, and no processing or mixed-light cultivation is occurring on the parcel. The California Natural Diversity Database mapped American peregrine falcon (*Falco peregrinus anatum*), foothill yellow-legged frog (*Rana boylei*), and north central coast summer steelhead stream occurrences within the project site. The project is conditioned to abide by the LSAA with CDFW to protect aquatic resources and organisms (**COA #B17**). The nearest Northern Spotted Owl (NSO) activity centers are located approximately 0.9 mile east of the cultivation sites; however, lands surrounding the site are heavily forested, and mapped NSO critical habitat occurs within 2.75 miles. Thus, there is high potential for NSO foraging habitat on the parcel and adjoining forested areas to the east. The project has been conditioned to ensure supplemental lighting associated with any nursery cultivation is fully contained with blackout tarps and that all outside lighting be placed on timers or motion sensors to reduce light exposure to wildlife and their potential habitat and to avoid heavy equipment operations during the NSO critical period (February 1–July 31) or perform protocol-level surveys prior to initiating that work (**COA #A11**). Per the Operations Plan, during the growing season, light

spillage from the two nursery greenhouses shall be prevented by use of black-out tarps that will be installed and securely fastened in place 1 hour prior to dusk and retained in place 1 hour after dawn to prevent light spillage from occurring. Furthermore, the project is conditioned to refrain from using synthetic netting, ensure refuse is contained in wildlife-proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife (**COA #B4-8**). As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively affect NSO or other sensitive species.

### **Tribal Cultural Resource Coordination**

There are no known tribal cultural resources on the project site. The project was referred to the Bear River Band of the Rohnerville Rancheria in 2020, which concluded that the parcel should be surveyed by a qualified archaeologist and recommended a study prior to commencement of project activities. Archaeological Research and Supply Company prepared a Cultural Resource Survey for the parcel in November 2021. The areas of potential effect (APE) had fair-to-excellent visibility of 50 to 100 percent, and the balance of the properties were surveyed using 15-meter (or less) transects on and around the project sites, including all associated infrastructure and access roads with a 600-foot buffer. Areas that were obscured by vegetation were subject to shovel probes every 15-meters and are entirely outside of the APE. No historic resources were identified as a result of the investigation. Ongoing conditions of approval are incorporated regarding the Inadvertent Discoveries Protocol to protect cultural resources and tribal cultural resources.

### **Access**

The property is located in Humboldt County, in the Bridgeville area, on the east and west sides of State Route 36, approximately 1 mile from the intersection where Larabee Valley Road turns into Hidden Valley Road. A Road Evaluation Report prepared by a licensed engineer, Stephen Nesvold (No. 25681), was prepared for Larabee Valley Road and Hidden Valley Road concluded that that the entire road segment is developed to the equivalent of a road category 4 standard (**Attachment 3d**). Public Works approved the project in a referral response dated October 14, 2020.

Environmental review for the 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 MND that was adopted for the CMMLUO and has prepared an addendum to this document for consideration by the Planning Commission (See **Attachment 2** for more information).

**RECOMMENDATION:** Based on a review of Planning and Building Department reference sources and comments from all involved referral agencies, Planning staff believe 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, 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 have stated that the required findings in support of the proposal have been made. Consequently, Planning staff do 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 Planning and Building 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 2 months later to give staff the time to complete further environmental review.