



COUNTY OF HUMBOLDT

For the meeting of: 7/6/2023

File #: 23-984

To: Planning Commission
From: Planning and Building Department
Agenda Section: Consent

SUBJECT:

Cali's Finest Gardens, LLC
Assessor Parcel Numbers (APN) 210-072-009
Record No.: PLN-12468-CUP
Bridgeville area

A Conditional Use Permit for 30,000 square feet (sf) of pre-existing outdoor cannabis cultivation, with 4,110 sf of ancillary propagation. Planning staff is recommending that only 3,000 sf of ancillary propagation be permitted. Cultivation will utilize light-deprivation techniques in greenhouses without the use of supplemental lights. Water is sourced by an existing 345,000-gallon rain catchment pond, and an additional 70,000-gallon rain catchment pond is proposed. Annual water usage is estimated at 200,000 gallons (11 gal/sf/yr). Power is sourced from an existing solar array and three 7kW Honda generators will be on-site for emergency backup purposes. A full processing facility is proposed with ADA bathroom and septic. A total of five employees are used for operations on-site. One residence will be used for on-site employee housing.

RECOMMENDATION(S):

That the Planning Commission:

1. Survey the audience for any person who would like to discuss the application.
2. If no one requests discussion, make the following motion to approve the as part of the Consent Agenda; and
3. Adopt the resolution (Resolution 23-__). (Attachment 1) which does the following:
 - a. Finds that the Planning Commission has considered the Mitigative Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance and the Addendum that was prepared for the Cali's Finest Gardens, LLC project); and
 - b. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and
 - c. Approves the Conditional Use Permit subject to the recommended conditions of approval (Attachment 1A)

DISCUSSION:

Project Location: The project is located in the Bridgeville area, on the south side of HWY36,

approximately 20 feet south from the intersection of HWY36 and China Mine Road, on the property known to be in Township 01N of Range 04E Section 25 Humboldt Base & Meridian.

Access: The site is accessed from China Mine Road, from State HWY 36.

Present General Plan Land Use Designation: Agriculture General (AG); Timberland (T); 2017 General Plan; Density: 40-160 acres per unit; Slope Stability: Low Instability (1) & High Instability (3).

Present Zoning: Agriculture Exclusive (AE); Timber Production Zone (TPZ).

Environmental Review: An Addendum to a previously adopted Mitigated Negative Declaration has been prepared for consideration per §15164 of the State CEQA Guidelines.

State Appeal: Project is NOT appealable to the California Coastal Commission.

Major concerns: None

Executive Summary: Cali's Finest Gardens, LLC seeks a Conditional Use Permit for 30,000 sf of pre-existing outdoor cannabis cultivation, with 4,110 sf of ancillary propagation. Planning staff is recommending that 3,000 sf of ancillary propagation be permitted. Cultivation will utilize light-deprivation techniques in greenhouses without the use of supplemental lights. Water is sourced by an existing 345,000-gallon rain catchment pond, and an additional 70,000-gallon rain catchment pond is proposed. Annual water usage is estimated at 200,000 gallons (11 gal/sf/yr). Power is sourced from an existing solar array and three (3) 7kW Honda generators will be on-site for emergency backup purposes. One (1) residence will be used for on-site employee housing. No cultivation activities are currently occurring on the site.

There was some discussion with the California Department of Fish & Wildlife (CDFW) regarding the Cultivation Area Verification (CAV) that was conducted by the County to verify pre-existing cultivation area for the site. The original CAV found 21,710 sf of cultivation area utilizing a TerraServer image dated November 4, 2015. After communication and meetings with the applicant it was determined that there was additional cultivation area that existed in 2015, which did not show up in the TerraServer aerial imagery due to shading from trees. It was determined that no expansion of the site had occurred in 2018, as pre-existing cultivation areas were centrally relocated on-site. The Interim Permit was then revised and approved for a total of 30,000 sf of outdoor cultivation area. Additional measurements have been calculated utilizing Google Earth Pro 2014 imagery, as the 2015 imagery from TerraServer is no longer available. The revised measurements included Areas D & E, which were not included in the original CAV, and revised the Areas B & C from the original CAV. The final revised measurements came out to a total of approximately 31,965 sf, and the County is only recommending approval for the 30,000 sf being requested by the applicant.

The site will be operated with the use of up to five (5) employees during peak season. The project includes the proposal for a new processing facility with an ADA bathroom. The proposed location for

the processing facility appears to be located where vegetation exist. Prior to the issuance of building permits for the proposed processing facility, the applicant shall obtain a Botanical Survey from a qualified Biologist, which verifies that no special status plants or trees considered timberland exists within the footprint of the proposed processing facility (**Condition A.8**). The applicant shall either ensure that the location for the proposed processing facility will not require the removal of special status plants or trees considered to be timberland (with a Botanical Survey), or shall propose a new location for the processing facility and submit an updated Site Plan to the Planning Division for review and approval of the new location, or shall have processing conducted off-site at a licensed processing facility (**Condition A.9**). In the event that the applicant decides to have processing conducted off-site at a licensed processing facility, the applicant shall have documentation kept on-site to show the use of a licensed processing facility, to be furnished during an annual inspection (**Ongoing Condition B.1**). The project was referred to the Department of Environmental Health (DEH) on January 26, 2022, and comments were received on February 1, 2022. Comments from DEH stated that processing activities must be supported by an approved onsite wastewater treatment system, and seasonal outdoor cultivation sites may be supported by portable toilets. The applicant must obtain a permit for and install an approved OWTS to support the processing location, and either install an approved septic system or provide portable toilets to cultivation areas (**Condition A.10**). If portable toilets are provided to the cultivation areas, the applicant shall provide receipts, or other equivalent documentation, annually to the Planning Division for proof of portable toilet service, unless a permitted onsite wastewater treatment system has been obtained (**Ongoing Condition B.2**).

The project proposes to include ten (10) light-deprivation greenhouses without the use of supplemental lights, and one (1) ancillary propagation greenhouse. The applicant is proposing a 4,110 sf propagation greenhouse, and Planning Staff is recommending approval of only 3,000 sf of ancillary propagation. The applicant shall submit an updated Site Plan to show a maximum of 3,000 sf of propagation area on-site (**Condition A.5**). Other buildings used for cultivation activities include: one (1) proposed processing facility, one (1) proposed drying/storage building, one (1) agriculture/chemical storage shed, one (1) conex box for drying and harvest storage, and one (1) residence for employee housing and storage. The applicant is conditioned to obtain building permits for all existing and proposed structures with a nexus to cannabis, including but not limited to: ten (10) light-deprivation greenhouses, one (1) ancillary propagation greenhouse, one (1) proposed processing facility, one (1) proposed drying/storage building, one (1) agriculture/chemical storage shed, one (1) conex box for drying and harvest storage, and one (1) residence for employee housing and storage (**Condition A.11**). Historic grading has occurred on the site in association with the cannabis cultivation. The applicant is conditioned to permit the historic grading that occurred in association to cannabis activities on-site, with the Building Division (**Condition A.12**). Power is sourced by three solar arrays on-site, and the applicant shall permit the solar systems with the Building Division (**Condition A.13**). Three emergency only backup Honda 7000 generators are proposed as part of the project. Generators must be housed in secondary containment, and generator sheds must have a concrete floor designed to incorporate containment for fuel leaks and spills which must be located on a stable surface with a minimum 200-foot buffer from Class I and Class II streams (**Condition A.14**).

Timber Conversion

It appeared that potential unauthorized timber conversion occurred on the site between 2010 and 2020,

in association to the unpermitted residence and cannabis cultivation activities. The applicant had a Timber Conversion Evaluation Report (TCER) prepared by RPF Chris Carroll with Timberland Resource Consultants, dated January 16, 2020. The project and the TCER was referred to CalFire for review on January 26, 2022, and no comments were received by the agency. The TCER states that a site visit was conducted on December 20, 2019, and concludes that a total of 1.82 acres of timber harvesting occurred in two locations on the site which did not result in timberland conversion. As there was no timber conversion that occurred on the site, no restocking is required. The applicant shall adhere to the following recommendation within the TCER (**Condition A.15**):

- The applicant shall eliminate fire hazard, the lower or eastern portion of the Eastern Timber Harvesting Area contains downed timber, which requires yarding of the logs and treatment of all associated logging slash.

Fire Hazard

The parcel is located in an area known to have a Very High Fire Hazard Severity, and is within the Bridgeville Fire Protection District (BFPD) for local fire response. The project was referred to the BFPD on January 26, 2022, and no comments were received. The project is also located within the State Responsibility Area (SRA) for CalFire, and was referred to the agency on January 26, 2022. An email was received by the agency on December 29, 2020, stating that an 11-acre vegetation fire resulted in an unpermitted debris burn associated with the applicant. After further communication with CalFire on April 19, 2023, it was relayed that the violation had been resolved and no further action is needed from the applicant. The Site Plan shows a firetruck turnaround, and a 2,500-gallon water tank designated for fire suppression needs only. The designated fire suppression tank shall have the appropriate fire hose that meets CalFire SRA requirements (**Condition A.16**).

Water Resources

The project sources water from an existing 345,000-gallon rain catchment pond on-site. The pond was installed without building permits, and the applicant shall permit the existing 345,000-gallon rain catchment pond with the Building Division (**Condition A.17**). There is a well on-site which is used for domestic purposes only. Total annual water usage for irrigation is estimated at 200,000 gallons (11 gal/sf/yr). The applicant is also proposing a 70,000-gallon rain catchment pond, which would bring the total water storage designated for cannabis irrigation to 415,000 gallons. As the applicant has a sufficient amount of water storage for irrigation needs with the existing 345,000-gallon pond, the additional 70,000-gallon pond being proposed is not required. In the event that the applicant plans to install the 70,000-gallon rain catchment pond in the future, they shall obtain the necessary building permits prior to installation (**Ongoing Condition B.3**). There is also one (1) 2,500-gallon hard water tank on-site designated for fire suppression only.

There is one Class II stream, Mule Creek, which runs through the southern portion of the parcel and all existing cultivation is located outside of the required streamside management area (SMA) for the stream. The site was historically enrolled in the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R-1-2015-0023, under WDID 1B171807CHUM. The site is currently enrolled in the State Water Resources Control Board's (SWRCB) General Order (No. WQ 2019-0001-DWQ) for Waste Discharge Requirements and Water Quality. The applicant has submitted a Notice of Applicability letter dated November 15, 2019, showing enrollment in the General Order as a Tier 1

Low Risk site under WDID 1_12CC417947, and states the requirement for a Site Management Plan (SMP). The applicant has obtained an SMP prepared by Mother Earth Engineering, dated March 2020. The SMP states that there are a total of seven (7) stream crossings on-site which require upgrades or instream work. The applicant shall adhere to the corrective actions listed in Table 13 of the SMP (**Condition A.18**). The applicant shall also adhere to the ongoing monitoring and winterization methods recommended in Section 7 of the SMP (**Ongoing Condition B.4**).

The applicant has obtained a Streambed Alteration Agreement with CDFW for the in-stream work needed to upgrade seven (7) stream crossings on-site (SAA No. 1600-2019-0662-R1). After a site visit was conducted on April 25, 2023, with the County and CDFW, it was determined that the applicant had not completed their SAA within the work of completion date. The applicant is required to submit an amendment for the SAA, and shall submit the revised CDFW signed and approved SAA to the County when available (**Condition A.19**). The applicant shall adhere to the project description and work outlined within the revised SAA with CDFW (**Ongoing Condition B.5**).

Biological Resources

The project is located approximately 1.9 miles to the nearest known Northern Spotted Owl (NSO) activity center. According to the California Natural Diversity Database (CNDDDB) for rare and endangered species, the project site may contain potential habitat for rare plant species Bolander's catchfly. As there is a proposed processing facility located where vegetation exists on-site, the applicant is required to obtain a Botanical Survey which verifies that no special status plants or trees considered timberland exist within the footprint of the proposed processing facility, prior to the issuance of building permits (**Condition A.8 above**). The applicant has obtained a Biological Reconnaissance Assessment and Onsite Relocation Plan (BRA) prepared by Mother Earth Engineering, dated June 2019. A site assessment was conducted on May 15, 2019, and found no special status plant species or special status wildlife species within the study area. One sensitive natural community was identified in the project area, the Oregon white oak. Recommendations within the BRA included: implementation of best management practices, no use of rodenticides, mitigation of generator noise, light prevention from greenhouses at night, and proper storage of fuel, fertilizers, pesticides, fungicides or other toxic substances. All recommendations are included in the ongoing conditions for the project, and the applicant is required to comply with International Dark Sky Standards for lighting within the propagation greenhouse, and shall ensure that all noise levels do not go above 50 decibels at 100-feet or any tree line when noise generating equipment are in use (**Ongoing Conditions B.6 & B.7**).

The applicant has also submitted an Aquatic Invasive Species Management Plan & Bullfrog Management Plan for the existing 345,000-gallon rain catchment pond on-site. The applicant shall adhere to the recommendations within the Plan for the existing 345,000-gallon rain catchment pond, and for the 70,000-gallon proposed rain catchment pond, if constructed (**Ongoing Condition B.9**).

The project includes the restoration of historic cultivation areas on-site. There are three (3) historic cultivation areas that require restoration. One of the sites is located near the existing pond, where extensive grading was done pre-2016. Most of the area has been naturally revegetated, and one area where cut was done may be resulting in erosion and sediment issues. The existing flat area is proposed

for the drying/storage building, and the applicant shall submit a regrading plan for this area to show how regrading will eliminate any erosion issues, and still allow for the proposed drying/storage structure (**Condition A.20**). The other two (2) historic cultivation areas are located in southern section of the parcel, one (1) is located within the SMA for Mule Creek, and the other area is located south of Mule Creek where guerrilla grow existed. The applicant is required to remove all cultivation related infrastructure and solid waste within these two (2) historic cultivation areas (**Condition A.21**).

An email was received by CDFW on February 27, 2020, which addresses concerns regarding the removal of oaks near the project area. A violation letter was sent by the County to the applicant on March 9, 2020, requesting a timber conversion evaluation from an RPF. The applicant submitted a Timber Conversion Evaluation with Restocking Plan and an Evaluation of Oak Restoration Report (EORR) on April 27, 2020, which were prepared by Timberland Resource Consultants. The EORR states that the true oak woodlands within the subject property are currently healthy and stable enough that restoration activities to remove the conifers would yield successful results and should occur. The applicant shall adhere to the following oak restoration recommendations within the EORR for no less than 6.4 acres of oak woodlands with the potential to restore and additional 10.6 acres of habitat (**Condition A.22**):

1. Phase 1:

- a. Remove Douglas-fir regeneration via hand crew (chain saws). Cut all Douglas-fir trees up to 12" DBH. Removal target is 80% or more of Douglas-fir stems. The cut needs to be made as low as possible on the stem, below the lowest live branch. Trees that are too difficult to fell safely can be girdled.
- b. Retain all living deciduous oaks and all snags greater than 10 inches in diameter. Avoid damage to retained trees; fall removed trees away from oaks to the extent feasible.
- c. Girdle (or cut) all Douglas-fir trees 12" DBH and greater. Girdles must completely go around the tree and should consist of two parallel horizontal bands through the bark and cambium several inches apart. After the grooves have been made, the bark and cambium should be peeled away. Merchantable trees may be left for future commercial harvests.
- d. Afterward, hand pile slash into manageable piles for burning. Piles must not be underneath the crowns, or directly adjacent to other trees.

2. Phase 2:

- a. Re-evaluate treated areas to determine if thinning oaks is appropriate. The goal of the thinning is to capture mortality and improve growing conditions. The target oak density will be site specific based on the crown size of individual trees. The objective is to not have interlocking crowns outside of multiple stem trees. This will lead to spacing on average of 40-60 stems per acre. These stands should be marked by a forester prior to thinning.
- b. Remove remaining young encroaching Douglas-fir, and treat slash, following the criteria in Phase 1.

3. Phase 3:

- a. Monitor treated stands periodically for further encroachment. Encroachment is anticipated to continue, however, following Phase 1 and 2 treatments it will be minimal and easily controlled.
- b. Identify the need for oak regeneration. California black oak and Oregon white oak are

both capable of resprouting from dormant buds following disturbance, however the conditions to promote natural regeneration are not well understood. It may be desirable to artificially plant in some areas.

- c. Pursue alternative means of understory management including mowing, tilling, or prescribed fire.
4. Following completion of operations, the RPF, or supervised designee, must examine the area to evaluate compliance with the practices outlined in the EORR. The inspection shall certify that no less than 6.4 acres were successfully treated. After the inspection, a letter including pictures of the project area shall be sent to the Planning Division describing the results of the restoration activities and the project's status in conformance.
5. *It should be noted that prior to burning slash piles created from the restoration activities applicable burn permits must be obtained from the local CalFire or Air Quality Management Districts offices.

The project was referred to CDFW on January 26, 2022, and no comments were received at that time. A phone call was received from a member of the public on April 13, 2023, with concerns regarding a potential bladder existing within a stream on-site. A site visit was conducted by the Planning Division on April 28, 2023, with CDFW present. During the site visit solid waste and plastic netting was observed on the property, as well as two (2) existing bladders, that were not filled, within an SMA on-site. Additionally, it was observed that stringed lighting existed within some of the existing greenhouses on-site. The applicant is required to remove all stringed lighting from the outdoor cultivation greenhouses, and this must be demonstrated through a site inspection (**Condition A.6 below**). The applicant was then issued a Notice of Violation with CDFW on May 23, 2023, and the applicant is required to resolve the violation with CDFW prior to commencing cultivation on-site (**Condition A.23**). It was also requested by the County that the applicant submit a Cleanup Plan to outline measures taken to clean up the site. The Cleanup Plan was submitted on May 12, 2023, and a Property Cleanup Plan Progress Report was submitted on June 19, 2022, which showed images of before and after pictures and receipts for dump runs to the Fortuna Recology Station. Both bladders on-site have been removed and discarded at an appropriate facility, and the applicant shall have a site visit conducted by the County, within 30 days of approval in order to verify that the site has been cleaned up at the satisfactory of the Planning Division & CDFW, and to confirm that no additional stringed lighting exists within the outdoor cultivation greenhouses (**Condition A.6**). During the site visit it was also determined by CDFW that the applicant shall install a wildlife escapement for the existing pond (**Condition A.24**). Additional comments received from CDFW on May 26, 2023, requested that additional conifer removal occur on-site instead of any conifer restocking. The applicant shall remove any additional conifers existing within the understory of the oak woodlands on-site, in line with the recommendations in the EORR (**Condition A.25**).

Tribal Cultural Resource Coordination

The project is located within the Bear River Band Rancheria Aboriginal Ancestral Territory. The project was referred to the Bear River Band of Rohnerville Rancheria, and the Northwest Information Center (NWIC) on January 26, 2022. A response was received from the Bear River Band tribe on February 8, 2022, stating that the project did not appear to represent a source of significant impacts on cultural resources, and requested that the applicant adhere to Inadvertent Discovery Protocols. The

applicant shall adhere to Inadvertent Discover Protocols, and shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist and the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and the lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided (**Informational Note 3**).

Access

Access to the project site is from privately maintained China Mine Road, from State Hwy 36. The applicant submitted a Road Evaluation Report (RER) form for State Hwy 36, dated April 16, 2020. The project was referred to the Department of Public Works on January 26, 2022, and comments were received by the agency on January 27, 2022. Comments from Public Works stated that the applicant submitted an incomplete RER which did not include the main access road China Mine Road, and mentions that multiple road evaluation reports have been submitted for China Mine Road. Public Works recommends that the various road evaluation reports be combined into one action plan. The applicant is required to enter into a Road Maintenance Association for China Mine Road, and the RMA will be required to construct the improvements in the final action plan (**Condition A.26**). Additional comments from Public Works includes that the project is accessed off of a State Hwy, and the project should be referred to CalTrans. The project was referred to CalTrans on January 26, 2022, and comments were received on February 15, 2022. Comments from CalTrans included the recommended condition that the applicant improve the driveway to meet current CalTrans standard for a commercial road approach (driveway) with a minimum throat width of 20 feet (**Condition A.27**). The site will be operated by the applicant and up to five (5) employees. A maximum of ten (10) vehicle trips are anticipated per day. The operations are pre-existing, and no increase in traffic is anticipated.

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

Planning staff determined that approval of this project is consistent with Humboldt County Board of Supervisors Resolution No. 18-43, which established a limit on the number of cultivation permits and acres which may be approved in each of the County's Planning Watersheds. 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 approved permits in this Planning Watershed would be 125 cultivation permits and the total approved acres would be 43.58 acres of cultivation.

OTHER AGENCY INVOLVEMENT:

The project was referred to responsible agencies and all responding agencies have either responded with no comment or recommended approval or conditional approval. (Attachment 5)

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. 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.

2. 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.

ATTACHMENTS:

1. Resolution
 - A. Conditions of Approval
 - B. Cultivation Operations Plan
 - C. Addendums to Cultivation & Operations Plan
 - D. Site Plan
2. Location Maps
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
 - A. Notice of Applicability Letter
 - B. Site Management Plan
 - C. Final Streambed Alteration Agreement with CDFW
 - D. Timber Conversion Evaluation Report
 - E. Oak Restoration Report
 - F. Biological Assessment and Onsite Relocation Report
 - G. Aquatic Invasive Species Management Plan & Bullfrog Management Plan
 - H. Property Cleanup Plan & Progress Report
 - I. Road Evaluation Report Form
5. Referral Agency Comments and Recommendations
 - A. Department of Environmental Health Comments
 - B. Department of Public Works Comments
 - C. California Department of Fish & Wildlife Comments
 - D. CalTrans Comments
6. Cultivation Area Verification Documents Prepared by Planning Division
 - A. Cultivation Area Verification
 - B. Revised CAV Measurements
7. Notice of Violation Letter from California Department of Fish & Wildlife
8. Watershed map

Applicant

Cali's Finest Gardens, LLC
3441 L Street
Eureka, CA 95503

File #: 23-984

Owner

2 Lucky Logging, LLC
3441 L Street
Eureka, CA 95503

Agent

PR Professional Services
3034 H Street, Suite C
Eureka, CA 95501

Please contact Megan Acevedo, Planner II, at macevedo@co.humboldt.ca.us or at (707) 441-2634 if you have any questions about this public hearing item.