

Recommended Zoning Administrator 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, make the following motion to approve the application as a part of the consent agenda:

Find that the Zoning Administrator has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) as described by Section §15164 of the State CEQA Guidelines, make all of the required findings for approval of the Special Permits and adopt the Resolution approving the Otto Farms, LLC Special Permits as recommended by staff subject to the recommended conditions.

Executive Summary: Otto Farms, LLC seeks a Special Permit for 7,620 square feet (sq. ft.) of pre-existing mixed-light cannabis cultivation with 800 sq. ft. of ancillary propagation, and two (2) harvests are anticipated per year. Irrigation water will be provided by a point of diversion from an unnamed creek under Water Right Certificate H100066, and the applicant is requesting a Special Permit to allow the continued use of the stream diversion. Drying will occur on-site, and trimming will be done off-site at a licensed processing facility. The applicant shall have documentation kept on-site to show the use of an off-site licensed processing facility, to be furnished during an annual inspection (**Ongoing Condition B.1**). There are an estimated 2-4 employees needed to operate the site. Electricity will be provided by a Honda EU2000i generator on-site.

The project was referred to the Department of Environmental Health (DEH) on January 12, 2021, and comments were received on January 15, 2021. Comments from DEH included the following recommendations of approval for the project: seasonal cultivation without processing may use portable toilets to serve the operation, the permittee shall provide portable toilets to cultivation areas meeting appropriate setbacks, or install a permitted septic system associated with a permitted structure (**Condition A.6**). The applicant shall also provide receipts, or other equivalent documentation, annually to the Planning Division for proof of portable toilet service until the applicant has obtained a permitted septic system on-site with DEH (**Ongoing Condition B.2**).

The project was referred to the Building Division on January 12, 2021, and a site inspection was conducted on April 27, 2021. Comments from the Building Division included a recommendation of approval based on the condition that all required permits are obtained, and to submit a revised Site Plan to show water tanks in place of bladders. A revised Site Plan has been submitted to include the addition of water tanks in place of the bladders. There are a total of two (2) mixed-light greenhouses, and the applicant plans to have a 20' x 40' greenhouse that will have a shared use for propagation space, drying and storage. There is one (1) Honda EU2000i generator that will be used for power source, and the applicant is required to have the generator located in a permanent location within secondary containment. 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.7**). The applicant shall submit an updated Site Plan within 30 days of approval to show the proposed location for the generator shed (**Condition A.8**). The applicant is conditioned to obtain building permits for all existing and proposed structures with a nexus to cannabis, including but not limited to: two (2) mixed-light greenhouses, one (1) greenhouse for ancillary propagation and storage, and one (1) generator shed (**Condition A.9**). Grading occurred on the site in 2015 in association with the cultivation area. The applicant is conditioned to permit historic grading that occurred on-site with the Building Division (**Condition A.10**).

Water Resources

The project will source water from the stream diversion under Water Right Certificate H100066. Estimated annual water needed for irrigation is 66,400 gallons, and a total of 54,600 gallons of existing water storage is designated for irrigation and one (1) 2,500-gallon water tank is designated for fire suppression needs. An additional 15,000 gallons of water storage is proposed within three (3) 5,000-gallon tanks, which will bring the total water storage for irrigation on-site to 69,600 gallons. The Water Right Certificate H10066 incorrectly shows that the point of diversion is located on APN: 317-033-066, but should correctly show that the point of diversion exists on the adjacent parcel to the south APN: 317-183-009. The applicant shall contact the Division of Water Rights in order to correct the location for the point of diversion (**Condition A.11**), and is conditioned to comply with the limitations and conditions set forth in the Water Right Certificate H100066 (**Ongoing Condition B.3**). As well, the applicant shall record a prescriptive easement with the adjacent property to the south APN: 317-183-009, in order to allow the access of the point of diversion (**Condition A.12**).

The site was historically enrolled in the North Coast Regional Water Quality Control Board's Order No. R1-2015-0023, under WDID: 1B170006CHUM. A Water Resource Protection Plan (WRPP) was prepared for the site by Natural Resource Management (NRM), dated May 27, 2017. The WRPP mentions that there is one Class I stream, the Mad River, and there are two (2) Class II streams that run through the property. A letter from NRM, dated October 5, 2020, states that staff investigated the locations, classifications and buffer areas for watercourses on-site and found that the historic Class II channel shown on the Humboldt County GIS layer appears to have been cut off by an old landslide along the southern property line and is estimated to have blocked the flow to the channel 30-50 years ago. It has been updated on the Site Plan that there is one (1) Class II stream that exists on the property. The applicant does have water tanks located within the 100-foot buffer for Class II streams required by the State Water Board, and the applicant is required to obtain a letter or similar documentation showing the approval from the Water Board allowing a setback reduction for the water tanks within the on-site Class II stream buffer. In the event that an allowance is not approved by the State Water Board, the applicant shall remove and relocate the water tanks and restore the area under a subsequent modification application (**Condition A.13**). The WRPP mentions the need for upgrading one (1) culvert on-site, a small segment of road on-site that is in decent condition, a water meter will be used to meter water used from the point of diversion, and that the site met many of the standard conditions of the Order No. R1-2015-0023. Standard conditions not met by the order included keeping a log of nutrient use on-site, the presence of solid waste on-site, and need for installing secondary containment for petroleum products storage.

The applicant has enrolled in the State Water Resources Control Board's (SWRCB) General Order WQ 2019-0001-DWQ, as a Tier 1 Low Risk site. A Notice of Applicability letter dated September 6, 2019, was submitted as proof of enrollment under WDID: 1_12CC417012. The applicant is required to have a Site Management Plan prepared for the site to assess any mitigation measure needed to comply with the SWRCB General Order, shall implement all corrective actions in the report, and shall submit a copy of the SMP to the Planning Division when available (**Condition A.14**).

There is one (1) known culvert on-site that needs replacing, and a point of diversion located on the adjacent parcel to the south APN: 317-183-009. The applicant has obtained a Streambed Alteration Agreement (SAA No. 1600-2017-0444-R1) with the California Department of Fish & Wildlife (CDFW) dated March 13, 2018. The applicant is conditioned to abide by the project description and work outlined within the SAA No. 1600-2017-0444-R1 (**Ongoing Condition B.4**).

Timber Conversion

The applicant has a Timber Conversion Report (TCR) that was prepared by NRP, dated March 13, 2020. The TCR states that there are two (2) areas where timber conversion occurred on-site, totaling 0.89 acres of timber conversion. Site A was converted in 2015 consisting of approximately 0.8 acres of timber conversion, and Site B was converted in 2017 consisting of 0.09 acres of timber that was converted to allow for additional water storage on-site. The project was referred to CalFire on January 12, 2021, and the replied stating that they had evaluated timber evaluation (TCR) and that they had no additional comments at that time. The applicant is required to address the 0.09 acres of post-2016 timber

conversion that occurred in 2017, and shall provide a Restocking Plan to restock the converted area on a 1-1-basis, prepared by a Registered Professional Forester (RPF). The submission of a document signed by the RPF stating that all restocking has been completed shall satisfy this condition (**Condition A.15**).

Biological Resources

The project is located approximately 0.7 miles to the nearest known Northern Spotted Owl (NSO) activity center. The project site is heavily forested, and does have the potential of containing NSO habitat. The main stem of the Mad River runs through the northern section of the property, and according to the California Natural Diversity Database (CNDDDB) for rare and endangered species, the site contains habitat for the summer-run steelhead trout. The applicant has enrolled in the SWRCB's Order No. 2019-001-DWQ for waiver of waste discharge, and all cultivation areas are located outside of any streamside management areas on-site. There are several water tanks that will be removed and relocated outside of an SMA and restoration will occur. As the site is pre-existing, and there is no proposed new development that would require tree removal, the applicant was not required to provide a Biological Report for the site. Due to the potential of habitat for NSO present on-site the applicant is required to comply with International Dark Sky Standards, shall ensure that all noise levels do not go above 50 decibels at any tree line when noise generating equipment are in use, and generators shall be enclosed in permanent generator shed locations (**Ongoing Conditions B.5 & B.6 and Condition A.7**).

Tribal Cultural Resource Coordination

The project is located in the Bear River Band Aboriginal Ancestral Territories. The project was referred to the Northwest Information Center (NWIC), and the Bear River Band Tribe on January 12, 2021. The NWIC replied on January 28, 2021, recommending that the local Native American tribes be contacted regarding traditional, cultural, and religious heritage values. The Bear River Band THPO replied on April 6, 2021 requesting a Cultural Resource Survey (CRS) for the project. The applicant has obtained a CRS for the project site, which was prepared by William Rich, M.A., RPA with William Rich and Associates, dated October 2021. The CRS found no presence of archaeological or historic-period cultural resources on-site. The applicant shall adhere to Inadvertent Discover Protocols, as requested by the Bear River Band THPO on October 27, 2021, 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 site is from a driveway off of Stapp Road, via Showers Pass Road which is a County maintained roadway. The applicant has submitted a Road Evaluation Report form for Stapp Road and Showers Pass Road, which indicates both roads as not being developed to the equivalent of a road category 4 standard. The traffic study form was filled out for the project which states that the Showers Pass Road and Stapp Road can accommodate the cumulative increased traffic from this project and all known cannabis projects, if the recommendations on the attached report are done. The Road Evaluation Report was prepared by Omsberg & Preston, and has been submitted to the Department of Public Works for review. Comments from the Department of Public Works recommends conditions of approval for the project. The recommended conditions include (**Condition A.16**):

- All recommendations from engineer on both access roads to be completed.
- Whether specifically addressed or not within the road evaluation report, Per Section 1273.03 of the State Fire Safe Regulations, California Code of Regulations (CCR), Title 14 Natural Resources, Division 1.5 Department of Forestry, Chapter 7 – Fire Protection, Subchapter 2 SRA Fire Safe Regulations, with have been established pursuant to California Public Resource Code Section 4290 et seq. (a) at no point shall the grade for all roads and driveways exceed 16 percent; (b) the grade may exceed 16%, not to exceed 20%, with approval from the County of Humboldt Planning & Building Department with mitigations, such as paving, to provide for the same practical effect. Mitigation measures other than paving require an exception to be approved per Section 1270.06.

- The access road shall be rocked for a minimum width of 20 feet and a length of 50 feet where it intersects the County road.

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

Planning staff determined 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 Mad River Planning Watershed, which under Resolution 18-43 is limited to 334 permits and 115 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 54 cultivation permits and the total approved acres would be 21.15 acres of cultivation.

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 Zoning Administrator (See Attachment 2 for more information).

Staff recommends that the Zoning Administrator describe the application as a part of the consent agenda, survey the audience to see if any person would like to discuss the application and, if no one requests discussion, make all the required findings based on the evidence in the record and approve the application subject to the recommended conditions.

Alternatives: Several alternatives may be considered: 1) The Zoning Administrator could elect not to hear this item and put the decision making in front of the Planning Commission. Any decision to place this matter before the Planning Commission must be done before opening the public hearing on this project; 2) The Zoning Administrator could elect to add or delete conditions of approval; 3) The Zoning Administrator could deny approval of the requested permits if you are unable to make all of the required findings. Planning Division staff is confident that the required findings can be made based on the submitted evidence and subject to the recommended conditions of approval. Consequently, planning staff does not recommend further consideration of these alternatives.