

**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, make the following motion to approve the application as a part of the consent agenda:

*1) Find that the Commission has considered the Addendum to the adopted Mitigative Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) as described by Section §15164 of the State CEQA Guidelines, 2) make all of the required findings for approval of the Conditional Use Permit and Special Permits and 3) approve the H1 Canyon, LLC Conditional Use Permit and Special Permits as recommended by staff subject to the recommended conditions.*

**Executive Summary:** A Conditional Use Permit for 42,188 square feet (sf) of existing outdoor commercial cannabis cultivation with 3,770 sf of ancillary propagation. The main water source is a 400,000 gallon rainwater catchment pond. Supplemental water comes from a well and two on-site spring diversions under Water Right Certificate H100110. The applicant has obtained a Well Assessment from a licensed geologist supporting the continued use of the well for supplemental irrigation. Water is stored in the 400,000 gallon pond as well as hard tanks for a total of 439,300 gallons. Annual projected water usage is 413,775 gallons (9 gal/sf/yr). Two (2) to four (4) employees will be used for cultivation activities. Power is sourced by four (4) generators used for drying, and the project will transition to 100% renewable energy by 2026.

The project will consist of 42,188 sf of full-sun outdoor cannabis cultivation with 3,770 sf of ancillary propagation. Buildings with a nexus to cannabis include two (2) dry sheds, one (1) storage shed, one (1) administrative hold area, and three (3) propagation greenhouses. Product will be dried on-site and additional processing will occur off-site at a licensed 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**). The project is also conditioned to obtain the appropriate building permits for all structures related to cannabis (**Condition A.7**), and for all historic grading that was done in excess of 50 cubic yards (**Condition A.8**).

The applicant utilizes portable toilets at the cultivation areas, and may choose to install a permitted septic system in the future. The project was referred to the Department of Environmental Health (DEH) on March 3, 2017. Comments were received from DEH on June 5, 2017, recommending conditional approval for the project based on the condition that the applicant provide an invoice or equivalent documentation to confirm the continued use of portable toilets, or has installed a permitted septic system with DEH (**Ongoing Condition B.2**). The Cultivation & Operations Plan mentions the use of two (2) pit toilets on-site, and the applicant shall discontinue and decommission the use of these pit toilets in accordance with the requirements of DEH (**Condition A.9**).

The project includes the decommissioning of four (4) historic cultivation areas, one (1) of which was in a streamside management area, and three (3) other sites that were located on steep slopes and are being relocated to an environmentally superior location where historic cultivation exists. The decommissioning of these historic cultivation areas will include the decommissioning of a historic skid trail. More details on the decommissioning and restoration of the historic cultivation areas is included in the Timber Resources, and Water Resources sections below.

**Setbacks**

The project is located adjacent to public lands, the Six Rivers National Forest (SRNF), and the applicant is requesting a setback reduction to approve a reduction to the 600-foot setback to approximately 200 feet, as shown on the Site Plan. The project was referred to the SRNF on March 12, 2019, and comments

were received on March 14, 2019. Comments from SRNF stated a recommendation of denial due to the use of forest service roads, and made a request for a property survey to ensure that the projects operations are not trespassing on federal lands. There is a survey on record which shows that the applicants Site Plan is accurate to the surveyed property lines, and is attached to this report.

The adjacent public land is subject to the Land and Resource Management Plan - Six Rivers National Forest 1995 (L&RMP). The project is consistent with the L&RMP because the cultivation activities will minimize impacts to biological resources and wildlife through measures to reduce potential light and noise impacts. The applicant conducts full-sun outdoor cultivation activities, will transition to renewable energy sources by 2026, and remediation of historic cultivation areas will occur. The project is consistent with recreational use on public lands as the proposed project is not located near developed campgrounds, trails, or other related facilities.

### **Energy**

The project currently utilizes four (4) generators on-site for drying activities, two (2) 6.5kW generators, one (1) 7kW generator, and one (1) 12kW generator. 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.10**). The applicant is conditioned to transition to 100% renewable energy source for the project by the 2026 cultivation season, and after transition shall be allowed to keep one generator on-site for emergency backup purposes only (**Condition A.11**). The applicant shall also provide an Energy Plan to the Planning Division to show how all power required by the project will be sourced 100% by renewable energy sources by 2026 (**Condition A.12**).

### **Fire Safety**

The project is located in an area known to have a Very High Fire Hazard Severity rating, and is outside of the local response area. The applicant shall cause to be recorded an "ACKNOWLEDGMENT OF NO AVAILABLE EMERGENCY RESPONSE AND FIRE SUPPRESSION SERVICES" for the parcel(s) on a form provided by the Humboldt County Planning Division. Document review fees as set forth in the schedule of fees and charges as adopted by the Board of Supervisors will be required (**Condition A.20**). The site is within the State Responsibility Area (SRA) for CalFire, and the applicant has designated a firetruck turnaround on the Site Plan. The applicant shall designate a minimum of 2,500 gallons of water storage dedicated to fire suppression only and shall submit an updated Site Plan to the Planning Department to show a minimum of 2,500 gallons of water storage designated for fire suppression only (**Condition A.5**). The designated fire suppression tank shall also have the appropriate fire hose that meets CalFire requirements (**Condition A.13**).

### **Timber Conversion**

Some unauthorized timber conversion has occurred on the site. The applicant had a Timberland Conversion Evaluation Report (TCER) prepared by RPF Thomas Blair with Blair Forestry, dated January 29, 2018. The TCER was sent to CalFire for review on December 4, 2018 and no comments were received. A field inspection was conducted by Thomas Blair on December 20, 2017, and the TCER evaluated that approximately 2.18 acres of timberland conversion occurred on the site. The TCER discusses the decommissioned historic cultivation areas where approximately 0.31 acres of timberland was converted in association to historic timber harvest skid trails and landings, and mentions that the sites have begun to naturally revegetate with Douglas-fir, oak and madrone seedlings. The TCER summarizes that the past unauthorized conversion activities meet the standards of the California Forest Practice Rules, and no recommendations were made in the report.

There was additional unauthorized timberland conversion that occurred on the site post-2016, which totaled approximately 0.71 acres. The applicant has submitted a Restocking Plan that was prepared by Green Road Consulting, which addresses restocking the 0.71 acres of post-2016 timberland that was converted on-site. The Restocking Plan was not prepared by an RPF, and a request was made to the applicant to submit a Restocking Plan prepared by an RPF. The applicant is conditioned to submit the

Restocking Plan prepared by an RPF, to the Planning Division, and shall complete the restocking as recommended in the final plan (**Condition A.14**).

### **Water Resources**

Projected annual water usage is 413,775 gallons (9 gal/sf/yr), and a total of 439,300 gallons of water storage exists on-site in a pond and hard tanks. The project sources water mainly from a 400,000-gallon rainwater catchment pond that was constructed in 2016-2017, and the applicant is required to permit the rain catchment pond with the Building Division (**Condition A.15**). Supplemental water for the project comes from two (2) points of diversion on-site, which are covered under Water Right Certificate H100110, and from a permitted well (Permit #20/21-0259). The applicant shall adhere to the limitations and conditions set forth in the Water Right Certificate H100110 (**Ongoing Condition B.3**). The applicant shall meter the water diverted and used for irrigation separate from water used from the well and separate from rain catchment (**Condition A.16**).

The applicant has obtained a Well Assessment Report (WAR) for the permitted well, prepared by Geologist David Lindberg with Lindberg Geologic Consulting, dated July 5, 2022. The WAR states that the well has a low likelihood of being hydrologically connected to nearby surface waters in any manner that could affect adjacent springs, wetlands, and or surface waters in the vicinity. The WAR continues to state that the well appears to draw water from a confined subsurface aquifer not significantly connected to any unconfined near-surface aquifer, which has an approximate recharge rate of 18 million gallons of water per year. As the project will only utilize up to 413,775 gallons of water per year, and the well is used as a supplemental water source to rain catchment, it has been determined that the continued use of the well for cannabis irrigation would not likely impact nearby surface waters.

There are four Class III streams that run through the property. The site was historically enrolled in the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R-1-2015-0023, under WDID 1B16599CHUM. A Water Resource Protection Plan (WRPP) was prepared for the site by Green Road Consulting. The WRPP includes measures for decommissioning the old skid trail associated with the decommissioned historic cultivation areas, mentions that all proposed cultivation sites meet the required buffers of the Order, and states that there are four (4) water crossings on-site and includes remediation and upgrades that are needed. The applicant shall complete the remediation work listed in the Summary of Required Remediation of the WRPP (**Condition A.17**).

The site has also been enrolled in the State Water Board's General Order 2019-0001-DWQ under WDID 1\_12CC419299, as a Tier 2 Low Risk site. A Notice of Applicability letter dated September 24, 2019 is attached for proof of enrollment in the General Order, which shows that the site requires a Site Management Plan (SMP) and a Nitrogen Management Plan (NMP) consistent with the General Order. The applicant is required to have a SMP and a NMP prepared for the project site to show measures required to meet compliance with the General Order, and a condition of approval for the project is to provide a copy of the final SMP & NMP report to the Planning Division when available, and to adhere to the corrective actions and ongoing monitoring recommended within the final SMP and NMP Reports (**Condition A.18 & Ongoing Condition B.4**).

The applicant has obtained a Streambed Alteration Agreement with the California Department of Fish & Wildlife (CDFW) (SAA No. 1600-2018-0633-R1). The SAA includes work for four (4) encroachments, two (2) for water diversions, and two (2) for the upgrading of an undersized culvert and improving a rock ford. The applicant shall complete the work as described in the SAA No. 1600-2018-0633-R1, and shall adhere to the terms of the agreement (**Ongoing Condition B.5**). The project also includes the remediation of a historic cultivation area within a streamside management area (SMA), which was located in the southern area of the parcel. The applicant is required to submit a Remediation Plan approved by CDFW to the Planning Division, and shall adhere to the work described in the final approved Remediation Plan by CDFW, for restoration work in the SMA (**Condition A.19**).

## **Biological Resources**

According to the California Natural Diversity Database (CNDDB) Resource Map, there is mapped habitat for the fisher in the southeast corner of the parcel. The nearest cultivation site is approximately 600 feet from the designated fisher habitat, and the applicant is required to adhere to International Dark Sky Standards for security lighting and the propagation greenhouse, all generators shall not exceed 50 decibels at 100 feet or the nearest canopy, whichever is closer, and the project is conditioned to transition to 100% renewable energy source by 2026 (**Ongoing Condition B.5 & B.6, Condition A.11**). The nearest Northern Spotted Owl (NSO) activity center is located approximately 0.7 miles from the nearest cultivation site.

The applicant had a Preliminary Biological Resource Assessment (PBRA) prepared by TansTerra Consulting, dated January 16, 2019. A habitat assessment was conducted on December 15, 2018 which found that the parcel contains potential habitat for the fisher and NSO, and mentions that serpentine soils were found on the site, but no presence of rare threatened or endangered species were found. The PBRA states that potential impacts from the project would include the historic development that already occurred, and any potential future ground disturbance. A recommendation was made in the PBRA that serpentine soils should be avoided for use as fill material as they contain asbestos and other hazardous materials, but no new ground disturbance or fill is proposed. Recommendations made in the report have been included as conditions of approval for the project, and no pre-construction surveys were requested as the site is pre-existing and no new ground disturbance is proposed. The project was referred to CDFW on March 30, 2017, and all comments have been addressed through the approved SAA No. 1600-2018-0633-R1.

## **Tribal Cultural Resource Coordination**

The project is located within the Hoopa and Tsnungwe tribal aboriginal territories. The project was referred to the Hoopa tribe on January 5, 2018, the Tsnungwe council on March 12, 2019, and the Northwest Information Center (NWIC) on January 5, 2018. The applicant had a Cultural Resource Investigation (CRI) prepared by M.A., RPA William Rich with William Rich and Associates, dated June 2017. The CRI found that no significant archaeological or historic-period cultural resources were found to exist within the project area, and recommended inadvertent discovery protocols. The CRI was sent to the tribes for review, and a response was received from the Tsnungwe tribe on March 27, 2019. Comments from the Tsnungwe tribe included that with the no findings of the CRI report, the project will not affect community water or make demands of community or tribal resources. The project is conditioned to adhere to inadvertent discovery protocols in the event that cultural resources are encountered during project activities (**Informational Note 3**).

## **Access**

The project site is accessed by US forest service route 6N06, from County maintained Friday Ridge Road. The project was referred to the Department of Public Works on March 30, 2017. Comments from Public Works recommended that the project be referred to the US Forest Service, and requested a Road Evaluation Report for the non-county maintained access roads. The project was referred to the USFS, and the applicant submitted a Road Evaluation Report with photos of the access road USFS 6N06, designating the road as being developed to the equivalent of a Category 4 road standard. As the access road is a US forest service route, the applicant does not have the authority to improve the access road, and no road improvements are required. Two (2) to four (4) employees will be used for project activities, and a maximum of eight (8) vehicle trips are anticipated per day. As the site is pre-existing, the proposed project will not result in an increase of traffic on the access road. The access road has been determined to meet the functional capacity needs for the project.

## **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 South Fork Trinity Planning Watershed, which under Resolution 18-43 is limited to 86 permits and 29 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed

would be 20 cultivation permits and the total approved acres would be 9.35 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 Planning Commission (See Attachment 2 for more information).

**RECCOMENDATION:** 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 (CUP) and Special Permits (SP).

**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.