

Not Fade Away Farms, LLC
Record Number: PLN-12628-CUP
Assessor's Parcel Number: 216-382-059

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 Permit and adopt the Resolution approving the Not Fade Away Farms, LLC, project as recommended by staff subject to the recommended conditions.

Executive Summary: Not Fade Away Farms, LLC, seeks a Special Permit to allow the continued cultivation of 7,948 square feet (SF) of outdoor cultivation with 240 SF of ancillary propagation, for a total of 8,188 SF of onsite cultivation, in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, Commercial Medical Marijuana Land Use Ordinance (CMMLUO). The site is designated as Residential Agriculture (RA5-20) in the Humboldt County 2017 General Plan Update and zoned Forestry Recreation with Special Building Site Combining Zone (FR-B-5(10)). Cultivation takes place in the southern half of the property within two (2) full-sun outdoor terrace areas (totaling 2,985 SF) and six (6) hoophouses utilizing light deprivation techniques, which range in size from 216 SF up to 1,600 SF (4,963 SF total). A total of 240 SF of ancillary propagation occurs onsite within two (2) structures, located to the west of the cultivation. Two (2) harvests are anticipated annually for a growing season that extends from March through November.

Onsite drying and processing occurs onsite within a 360 SF shed structure and 120 SF area, respectively. The operation is conducted by LLC members and immediate family only; no additional employees are required. A maximum of three (3) people will be on-site during peak operations. Power is provided by generators with three (3) 50-watt solar panels serving the existing residence; however, the applicant has long term plans to add additional solar and switch to a propane generator. The operation is secured behind locked gates and all visitors are verified before being allowed entrance to the property. Additionally, cannabis storage occurs in locked areas.

Timber Conversion

Based on review of historic aerial imagery dating back to 2004, timber conversion has occurred onsite in order to accommodate the existing residence and greenhouses, and appears to have occurred between 2005 and 2009, prior to the CMMLUO environmental baseline date of January 1, 2016. It is not clear if a harvest document was obtained from the California Department of Forestry and Fire Protection (CAL FIRE) prior to removing the trees. The project is conditioned to require the property be evaluated by a Registered Professional Forester (RPF) to obtain a Timber Conversion Report from a RPF and/or a Less Than Three Acre Conversion Exemption or Timber Conversion Permit from CAL FIRE, as determined necessary by the RPF, to address previously unpermitted timber conversion. Should any timber conversion be determined to have occurred after the CMMLUO baseline date, the applicant/owner will be responsible for mitigating the environmental impacts not analyzed in the environmental document prepared for the CMMLUO, and shall re-stock an area onsite equivalent to the amount of area converted after the CMMLUO baseline date a rate of 3:1. The report shall include monitoring and reporting requiring a minimum of 3 years of monitoring at an 85% success rate and submission of annual monitoring reports at the time of the annual inspection.

Water Resources

Estimated annual water usage is 75,000 gallons (9.16 gal/SF) with peak demand occurring in August and September at approximately 24,000 gallons per month, as shown in the table below. Onsite cannabis is

irrigated utilizing a timed, metered, drip irrigation system. Time of day watering (early morning or evenings) is utilized to prevent any evaporation, runoff, and for water conservation.

Table 1. Monthly Water Use (in Gallons)

Month	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
Gallons	0	0	0	6,000	6,000	6,400	6,400	24,000	24,000	2,400	0	0
Total	75,000											

Water for irrigation is currently provided by an on-site groundwater well (18/19-0909); however, the applicant proposes to convert to rainwater catchment within a two-year period. The onsite well is also registered with the California Department of Water Resources (WCR2019-006574). The well is located west of the cultivation area, just east of Upper Willow Road, approximately 133 feet northwest of the nearest Streamside Management Area and 40 feet higher in elevation. According to the Well Completion Report (see Attachment 3), the well is 120 feet deep and drilled through sandstone, fractured shale with quartz, clay, and top soil. A PVC screen blank is installed for the entire depth of the well. Based on the distance from the nearest watercourse and the use of a PVC screen for the entire depth of the well, Planning staff determined the well is likely to be hydrologically disconnected from surface waters and does not require additional water rights from the State Water Resources Control Board and is not subject to forbearance or water storage requirements.

Under the project, the applicant will switch their irrigation water source to rainwater catchment and will remove the existing water line for irrigation from the well. Please note the well will still be utilized solely for the onsite residence.

Existing available water storage is 6,000 gallons in three (3) HDPE water storage tanks, with one (1) of the tanks (2,500 gallons) dedicated for domestic use for the onsite residence. Fifteen (15) additional HDPE water tanks totaling 71,500 gallons (one 1,500-gallon and fourteen 5,000-gallon tanks) are proposed and will be located to the north of the three (3) existing storage tanks. This will result in a total of 77,500 gallons of onsite water storage, with 2,500 gallons utilized for domestic use. A metered line will be installed to the cultivation area from the rainwater catchment tanks.

Conditions of approval require the applicant to monitor water use from the well and storage tanks annually to demonstrate there is sufficient water available to meet operational needs, and to make the conversion to rainwater catchment for irrigation within a two-year period.

Per review of the County's GIS and the Site Plan, an unnamed stream, a tributary to Powers Creek, traverses the southeastern portion of the property. While the respective Streamside Management Area (SMA) buffer is not depicted on the Site Plan, County WebGIS indicates the existing residence and existing cultivation is located within the SMA buffer, shown to be 170 feet, as measured from the centerline of the stream. The project is conditioned to require the applicant to relocate any existing cultivation located within the respective SMA buffer to a previously disturbed area without the use of heavy machinery, and submit a revised site plan depicting the SMA buffer locations and existing and proposed locations of the relocated cultivation area(s).

A Notice of Applicability (NOA) was obtained from the North Coast Regional Water Quality Control Board (NCRWQCB) in July 2020 (WDID 1_12CC423532; Attachment 3) in compliance with the State Water Resources Control Board (SWRCB) Cannabis General Order for Waste Discharge. The applicant is required to provide a copy of all documents filed with SWRCB, including, but not limited to, a Site Management Plan (SMP), and shall implement any recommendations detailed in the SMP to minimize any potential impacts associated with the project and minimize runoff into nearby SMAs.

The applicant submitted a Notification of Lake or Streambed Alteration for Cannabis Cultivation application (Notification No. 1600-2019-0536-R1) to the California Department of Fish and Wildlife (CDFW) in June 2019 (Attachment 3) regarding the existing operation and onsite well. The applicant is required to finalize the Agreement with CDFW, as necessary, and comply with all applicable terms of the Final Agreement.

Biological Resources

Per review of the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB) in September 2021, there are no mapped sensitive species onsite and the nearest Northern Spotted Owl (NSO) positive sighting and NSO activity center are located approximately 1.81 miles and 5.04 miles from the cultivation area, respectively. Power to the site is currently provided by generators, with three (3) 50-watt solar panels serving the existing residence; however, the applicant has indicated there are long-term plans to add additional solar and switch to a propane generator. There is no use of artificial lighting authorized by this permit. The conditions of approval require the applicant to implement noise and light attenuation, refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife. As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively impact NSO or other sensitive species.

Access

Access to the site is via a driveway off Upper Willow Road (a private road) via Rancho Sequoia Road (a private road) and Alderpoint Road (a County-maintained road developed to Category 4 road standards). Road Evaluation Reports for the 2.1-mile segment of Rancho Sequoia Road from Alderpoint Road to Upper Willow Road, and for Upper Willow Road from Rancho Sequoia Road to the private driveway, were prepared by DTN Engineering and Consulting in August 2019 (Attachment 3). The Road Evaluation Reports conclude that the two road segments are not developed to the equivalent of a Category 4 road; however, per Part B of the Road Evaluation Reports, the two road segments were found to be very low volume roadways and can accommodate the increased traffic from the proposed project and all known cannabis projects if the recommendations in the *Roadway Evaluation for APN #216-382-059, APPS 12628* (DTN Report), prepared by DTN Engineering and Consulting, are implemented. The DTN Report assesses Rancho Sequoia Road from the subject property to Alderpoint Road, Upper Willow Road from the subject property to Rancho Sequoia Road, and the private driveway to Upper Willow Road. The submitted report included sufficient photographic evidence to verify the roadway condition as described, including roadway width and line of sight.

Several recommendations are included in the DTN Report, including the following:

- Rancho Sequoia Road: establish pullouts for curves at the locations identified, verify sizing and fix crushed and clogged culverts, remove abandoned vehicles, regrade the road to create positive drainage, clean ditches and re-establish roadside ditches, fix identified erosion issues, construct a paved approach at the intersection of Rancho Sequoia Road and Alderpoint Road, and construct waterbars and rolling dips
- Upper Willow Road: regrade Upper Willow Road and construct rolling dips and waterbars
- Private Driveway: regrade the driveway, apply a dry lime treatment to the driveway for a hard driving surface due to steep grades, and construct rolling dips and waterbars

The Rancho Sequoia Road network has been heavily evaluated, with the inclusion of outside agency comments and review including the SWRCB and the CDFW, including consulting engineers that have compiled detailed descriptions of the current conditions of the road a three-year and a ten-year remediation and improvement plan with associated cost estimates to complete the proposed work totaling roughly 1.5-million dollars. The improvements include the cleanup of chemical spills along the road, grading, re-sloping, installation of water bars, improvements to drainage, culverts, and the use of fill, and the application of lime and lignin for areas of high clay that have led to sink holes and major rutting. Due to the extensive level of road improvements and associated costs, the road improvement projects will be performed under the Rancho Sequoia Road Association (RSRA) (A Road Maintenance Association) including acquiring a Lake or Streambed Alteration Agreement through the CDFW, permits

and approval including sign off of a Restoration and Monitoring Plan (RMP) through the SWRCB, and all required permitting and review through the Public Works Land Use. As conditioned the applicant is required to provide evidence, of inclusion within the RSRA including annual receipts showing the required contributions to the association. The RSRA will be conditioned to implement and adhere to any finalized or amended Lake or Streambed Alteration Agreement tied to the road improvements as included in the recommended improvements of the engineered road evaluation performed by DTN engineering (Attachment 3) as well as adherence to the approved RMP through the SWRCB conditions to any road improvements that fall under their jurisdiction. In the event the applicant is unable to maintain membership within Road Maintenance Association, the applicant shall pay fair-share cost for maintenance of the road to any road user engaged in maintaining the road through the life of the project. Additional documentation approved or required by CDFW or SWRCB shall be provided to the Humboldt County Planning Department on an annual basis or upon project updates whichever occurs first and an annual period.

The project is conditioned to implement all recommendations contained in the DTN Report and maintain membership in the RSRA. Additionally, based on comments received from the Department of Public Works, Land Use Division in December 2019, any existing of proposed driveway to serve as access for the proposed project that connects to a County-maintained road shall be improved to current standards for a commercial driveway, and, as a result, the access road (Upper Willow Road) shall be paved for a minimum width of 20 feet and a length of 50 feet where it intersects the County road (Alderpoint Road). Further, all driveways and private road intersections onto the County road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance). Conditions of approval require the applicant join the Rancho Sequoia Road and Upper Willow Road Maintenance Associations and shall pay fair-share cost for the specific improvements identified in the DTN Report, Public Works' comments, and maintenance of the roads.

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 permits and acres which may be approved in each of the County's Planning Watersheds. The project site is located in the Middle Main Eel Planning Watershed, which under Resolution 18-43 is limited to 360 permits and 125 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 83 permits and the total approved acres would be 40.5 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.