



# COUNTY OF HUMBOLDT

For the meeting of: 9/18/2025

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File #: 25-1131

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**To:** Planning Commission

**From:** Planning and Building Department

**Agenda Section:** Consent

SUBJECT:  
Fenario LLC Conditional Use Permit and Special Permit  
Assessor Parcel Number (APN) 223-034-003  
Record No.: PLN-12050-CUP  
Benbow area

A Conditional Use Permit for up to 34,924 square feet of existing outdoor cannabis cultivation with 1,440 square feet of appurtenant nursery space. Water for irrigation is sourced from two permitted diversions and rainwater catchment. Water storage consists of 38,750-gallons of existing hard tanks and 300,000 gallons of proposed rainwater catchment tanks that will replace an onstream pond that will be retired and restored. Annual cultivation water use is 239,600 gallons. Processing activities including trimming and packaging will occur offsite. Power provided by a solar panel and battery system with a generator for emergencies. The project includes a Special Permit for the removal and restoration of a pond in a streamside management area.

RECOMMENDATION(S):  
That the Planning Commission:

1. Adopt resolution, (Attachment 1) which does the following:
  - a. Finds the Planning Commission has considered the Mitigated Negative Declaration previously adopted for the Commercial Medical Marijuana Land Use Ordinance and the Addendum that was prepared for the Fenario LLC project (Attachment 3); and
  - b. Finds the proposed project complies with the General Plan and Zoning Ordinance; and
  - c. Approves the Fenario LLC Conditional Use Permit subject to the conditions of approval (Attachments 1A).

DISCUSSION:

**Project Location:** The project is in the Benbow area, on the East side of US Highway 101, on the intersection of Benbow Drive and US Highway 101, approximately 5 miles East from the intersection of US Highway 101 and a Private Drive, on the property known to be in Section 9 of Township 05 South, Range 04 East, Humboldt Base & Meridian.

**Present General Plan Land Use Designation:** Agriculture Grazing (AG), 2017 General Plan, Density: 20 -160 acres per unit; Slope Stability: High Instability (3)

**Present Zoning:** Agriculture Exclusive (AE); Agriculture Exclusive (AE) Special Building Site (B-5(160); Timber Production (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:** A Conditional Use Permit for up to 34,925 square feet of existing outdoor cannabis cultivation operation. Outdoor cannabis cultivation will occur on graded flats and on existing open areas in hoop houses and outdoors. Young plants are nurtured in a 1,440 square foot greenhouse. The project proposes retiring and restoring an existing pond that is located over a perennial stream and an ephemeral watercourse. The pond has been in existence since at least 2005 and has likely be used for cannabis irrigation since then. The pond was deemed problematic by the California Department of Fish and Wildlife due to its proximity to stream channels. The applicant has proposed the removal and restoration of the pond, surrounding area, and associated stream channels. To replace the water storage capacity of the pond the applicant is proposing the development of three 100,000-gallon hard sided water tanks. The cultivation areas, pond existing and proposed infrastructure is shown on the site plan, **Attachment 1C**. Irrigation water for cannabis is supplied by a rainwater catchment into the proposed tanks and two points of diversion secured with a water right. The project has 4,000 gallons of water storage dedicated to domestic and fire suppression use. Water for cannabis cultivation is used from March to November. Water source, storage and use is detailed in the Operations Plan, **Attachment 1B**. The 160-acre parcel is an intact parcel, thus establishing compliance with the subdivision map act. The project is East-southeast of Benbow in the South Fork Eel Watershed.

The parcel has a relatively flat area on the southeast corner of the property at an elevation of 2,360 feet. The property slopes downward to the north, with an elevation of 1,800 feet along the northern parcel boundary. The cannabis activities are focused in two cultivation sites as shown on the site plan, **Attachment 1C**. Vegetation communities include mixed-conifer hardwood forest, oak woodland, and prairie. The parcel is transected by historic logging roads and has been logged at least once.

On February 13, 2020, a Lake and Streambed Alteration Agreement (LSAA, 1600- 2019-0183-R1C, **Attachment 4D**) was issued to the applicant to divert surface water from three Points of Diversion (PODs), to upgrade five stream crossings, permit one existing stream crossing, and to evaluate a lined-onstream pond. The LSAA was extended on April 14, 2025, until February 13, 2030. The purpose of the extension was to allow the applicant to plan and execute the retirement of the pond. The referral comments from CDFW are incorporated as **Attachment 5A**. CDFW staff identified several possible impacts to wildlife and watercourses. CDFW comments resulted in project conditions that are further described in the Water Resources and Biological Resources sections of this report and in **Attachment 1A** Conditions of Approval.

Green waste is composted in a designated area away from surface waters as noted on the site plan. Organic fertilizers and pesticides are stored in an agricultural storage structure that meets all requirements for secondary containment. All fuel and hazardous materials are stored in secure areas with secondary containment in accordance with applicable regulations. Garbage and recycling are stored in a secure waste storage area. The waste storage area complies with Best Practical Treatment or Control (BPTC) measures to prevent wildlife tampering and transport of waste to waters of the State. Waste is removed from the property every two weeks and transported to an approved waste disposal facility. Domestic wastewater treatment is managed with a proposed onsite wastewater treatment system that will be permitted with the Humboldt County Department of Environmental Health. The applicant will pursue permitting for the proposed septic systems upon project approval. The project is conditioned that portable toilets must be used until approval of a permitted onsite wastewater treatment system (OWTS) (**Condition of Approval B.3**). In addition, the project is conditioned that evidence is provided to County staff during annual inspections to confirm the continual use of portable toilets to serve the needs of cultivation staff until the OWTS and residence is permitted. The applicant states that workers would be necessary for the operation and that carpooling would be implemented as needed.

### **Water Resources:**

The main source for irrigation water is diversion from two springs and a watercourse that is allowed through a water right, certificate H100190 (**Attachment 4B**). The water right allows the diversion of up to .71-acre feet, or 231,354 gallons, of water annually. Historically cultivation water for the project has also been supplied by a 289,000-gallon rainwater catchment pond and two of the three permitted onsite diversions. The total estimated annual cultivation water use is 239,561 gallons/year (6.9 gallons/square foot). Existing Tanked water storage totals 23,750-gallons and the project includes a condition that a 2,500-gallon dedicated fire tank be installed and shown on the site plan (**Condition of Approval A-8**). A Water Management Plan is included in the operations plan for the project. Cultivation sites are hand-watered, and flow meters are used to control exactly how much water is applied. The applicant utilizes compost and mulch to increase the water holding capacity of the soil.

The applicant states they intend to use 60,000 gallons of the 231,354-gallon diversionary water source

annually for domestic use. This leaves 171,354 gallons of diversionary water available for cannabis irrigation. The remainder of the required water will be sourced from three proposed rainwater catchment tanks to be developed as shown on the site plan. Staff prepared a rainwater catchment analysis for the proposed tanks. The average of the three lowest rainfall years for the area, 33" of rain, in the past 20-years was multiplied by the surface area of the collection tanks, 2,830 square feet. The product was multiplied by a conversion factor to result in the gallons of rainwater catchment of the tanks in a drought year. As proposed, the project can collect and store 68,270 gallons of rainwater in a drought year. In an average rain year, the project can collect and store 136,414 gallons of water providing a surplus and reducing the water needed through diversionary sources.

The project is conditioned to install water meters at each of the three points of diversions and the outlet of the rainwater collection/storage tanks and to keep monthly records of water usage. The water meter records shall be made available to the Planning Department at each annual inspection or as requested by planning staff (**Condition of Approval A.2**). The permittee shall ensure that screens are installed on all water diversion intakes in accordance with the LSAA Notification No. 1600-2019-0183-R 1 (**Condition of Approval A-9**).

A large onstream pond that intersects two Class II streams was constructed sometime prior to 2004. In 2015, the landowner expanded the pond size by grading, installed a pond liner, and altered two streams by redirecting the channels into culverts below the ground surface. The two culverts redirect the stream channels under and around the pond. The culverts, connect beneath the pond, merge the streams, and outflow into a single channel below the pond site. Both the pond and the culverts were installed without permits. The unauthorized modification of the stream channel and construction of the pond could have impacts to water quality. In consultation with CDFW it was determined the pond needs to be removed and the stream channels and surrounding area should be restored. The Applicant has been working with CDFW for the past six months to develop a plan to retire the pond and restore the area. The applicant entered into an amended Lake and Stream Alteration Agreement in April 2025, that requires the retirement and remediation of the pond area. In July 2025 the applicant provided draft plans for pond removal and restoration to CDFW for review and approval. The Plans are included as **Attachment 4E**. The project is conditioned to complete the retirement and restoration of the onstream pond as described in Lake or Streambed Alteration Agreement, Notification No. 1600-2019-0183-R 1 as amended (**Condition of Approval A-6**).

While onsite CDFW observed two water pumps without secondary containment (at coordinates 40.028240, -123.726154 and at 40.030893, -123.730965). To protect water quality, the applicant is required to implement secondary containment for water pumps, fuel, and any hazardous material storage to prevent spills (**Condition of Approval B.5**).

The project referral to the Division of Environmental Health (DEH) resulted in a request for conditions of approval. The project is conditioned requiring the use of portable toilets for cultivation activities unless a septic system is permitted in association with a permitted structure (**Condition of Approval**

**B.3).** It is noted there is a septic system currently on site next to the residence but the compliance and permitting status of the system is unknown.

The three diversions are from springs that feed unnamed watercourses that are tributaries to Horse Pasture Creek, which is a tributary to the East Branch of the South Fork of the Eel River. Water from diversionary sources is regulated by the State Water Resources Control Board through the water right and by the California Department of Fish and Wildlife through the approved LSAA for the project. Through this regulation, including protection of watercourses, prevention of erosion, ensuring adequate bypass flow, and limitations on time and quantity of withdrawals, water quality and flow are ensured. Accordingly, there will be no adverse impact on public trust resources associated with Horse Pasture Creek, East Branch of the South Fork of the Eel River, South Fork of the Eel River, or the Mainstem of the Eel River as a result from the use of these diversions. Bolstering this finding is the fact that the applicant has proposed enough water storage to meet the annual domestic and cultivation water needs for the project. The applicant shall be limited to utilizing the diversions for 171,354 gallons of cultivation water. (**Condition of Approval B.3**).

**Biological Resources:** A review of the California Natural Diversity Database did not indicate the potential of any special status plants or animals on the project site. The nearest mapped Northern Spotted Owl activity center is approximately 1.4 miles to the southeast (HUM0992).

The project has been conditioned to ensure supplemental lighting associated with the nursery cultivation adheres to Dark Sky Association standards including security lighting (**Condition of Approval B.9**). Permit conditions of approval also prohibit using synthetic netting for erosion control (**Condition of Approval B.11**), ensure refuse is contained in wildlife-proof storage (**Condition of Approval B.12**), and prohibits use of anticoagulant rodenticides to further protect wildlife (**Condition of Approval B.14**). As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively affect the northern spotted owl or other sensitive species.

**Energy:** Power is currently provided solar panel and a battery bank. The project is conditioned to convert to renewable energy no later than January 1, 2026 (**Condition of Approval A.11**).

**Access:** The project is accessed from a Reed Mountain Road off Ranch Road which connects to Benbow Drive. The applicant submitted a road evaluation for the road (**Attachment 4C**). The road evaluation concluded that the road was developed to a standard equivalent to a Category 4 road. The Humboldt County Department of Public Works recommended approval for the project as proposed.

**Geologic Suitability:** The soils on the subject parcel are categorized as having high instability. The project does not propose the construction of new structures. New grading activities are confined to the restoration of the pond area; this action will increase the stability of soils on the parcel.

**Timber Conversion:** Vegetation communities include mixed-conifer hardwood forest, oak woodland, and prairie. The parcel is transected by historic logging roads and has been logged at least once. Staff review of time-sequenced air photos did not indicate the removal of trees for the purpose of cannabis cultivation associated with the project. The site was inspected by staff on November 21, 2024, and no evidence of tree cutting was noted. No new tree cutting is proposed as part of the project. CalFire referral replied with standard project conditions.

**Security and Safety:** The applicant has implemented security measures to safeguard the product and prevent nuisance from occurring on the property. Cultivation at the project occurs behind locked gates.

**Tribal Consultation:**

The project is located within the Sinkyone Aboriginal Ancestral Territory. The project was referred to the Intertribal Sinkyone Wilderness Council and the Northwest Information Center (NWIC) December 17, 2019. NWIC had no record of any previous cultural resources for the project area, and they recommended consultation with the local tribal representatives and a Cultural Resource Inventory Report. A Cultural Resource Inventory Report was prepared by William Rich and Associates in March of 2022. No historic or prehistoric cultural markers were found as a result of this investigation. The Cultural Resource Inventory Report was referred to the Intertribal Sinkyone Wilderness Council, no objections were raised. The Inadvertent Discovery Protocols have been conditioned for the project; the applicant shall cease all work in the immediate area and within a 50-foot buffer of the any 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 ( **Condition of Approval B.1**).

**Public Trust Resources:** The project is in the South Fork Eel River Watershed; the project is 1.2 miles southwest of the East Branch of the South Fork Eel River. The three diversions are from springs that feed unnamed watercourses that are tributaries to Horse Pasture Creek, which is a tributary to the East Branch of the South Fork of the Eel River. Water from diversionary sources are regulated by the State Water Resources Control Board through the project's water right water right and by the California Department of Fish and Wildlife through the approved LSAA for the project. Through this regulation, including protection of watercourses, prevention of erosion, ensuring adequate bypass flow, and limitations on time and quantity of withdrawals, downstream water quality and flow are ensured. The Eel River provides recreational opportunities for swimming, boating, and fishing. The project collects water in the rainy season from November 1<sup>st</sup> to April 31<sup>st</sup> when the river has excess water due to rainfall. Water from the tanks is used in the dry season when the public trust resource of the river is limited. The project has no impact on flows during the dry season, thus the use of the stored water for irrigation purposes will not cause any significant adverse impact to the Eel River or otherwise substantially impair the public trust uses or values related to commerce, navigation,

fisheries, public access, preservation of trust lands in their natural state, or water-related-recreation and other activities.

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

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 in the South Fork Eel Planning Watershed, which under Resolution 18-43 is limited to 730 permits and 251 acres of cultivation. With the approval of the project the total approved permits in this Planning Watershed would be 290 permits and the total approved acres would be approximately 89.0 acres of cultivation.

**Environmental Review:**

An environmental review for this project was conducted and based on this analysis, staff concludes that all aspects of the project have been considered in a previously adopted Mitigated Negative Declaration (MND) that was adopted for the CMMLUO. Staff has prepared an addendum (Attachment 3) to the MND for consideration by the Planning Commission.

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)

ATTACHMENTS:

1. Draft Resolution
  - A. Conditions of Approval
  - B. Cultivation Operations Plan
  - C. Site Plan
2. Location Maps
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
  - A. Site Management Plan
  - B. Water Right
  - C. Road Evaluation
  - D. Amended LSAA
  - E. Pond Retirement and Restoration Plan
5. Referral Agency Comments and Recommendations

A. CDFW

**Applicant**

Fenario LLC  
Danny Jason Ballard  
PO Box 997  
Garberville, CA 95542

**Owner**

Fenario LLC  
PO Box 997  
Garberville, CA 95542

Please contact Andrew Whitney, Planner, at [awhitney2@co.humboldt.ca.us](mailto:awhitney2@co.humboldt.ca.us) or 707-268-3735 if you have questions about this item.