



COUNTY OF HUMBOLDT

For the meeting of: 11/7/2024

File #: 24-1545

To: Planning Commission

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

MIB 2, LLC Conditional Use Permit and Special Permit
Assessor Parcel Number 221-021-026
Record No.: PLN-11543-CUP
Miranda Area

A Conditional Use Permit for 33,000 square feet of existing outdoor commercial cannabis cultivation with 3,160 square feet of ancillary propagation. Estimated annual irrigation water usage of 200,000 gallons will be sourced from rainwater catchment and a groundwater well. Water storage is provided by a 250,000-gallon pond. Processing, including trimming, will occur onsite. Electricity is provided by solar power with a generator reserved for emergencies only. A Special Permit is included because the project is within 600 feet of Public Lands managed for open space and requires a setback reduction.

RECOMMENDATION(S):

That the Planning Commission:

1. Adopt resolutions (Resolution 24-__) (Attachments 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 prepared for the MIB 2, LLC project (Attachment 3); and
 - b. Finds the proposed project complies with the General Plan and Zoning Ordinance; and
 - c. Approves the MIB 2, LLC Conditional Use Permit subject to the recommended conditions of approval (Attachments 1A).

DISCUSSION:

Project Location:

The project in the Miranda area, on the West side of Thomas Rd, approximately 3.8 miles North from the intersection of Thomas Rd and Salmon Creek Rd, on the property known to be in Section 4 of Township 03 South, Range 02 East, Humboldt Base & Meridian, known as 3809 Thomas Road.

Present General Plan Land Use Designation:

Residential Agriculture (RA), 2017 General Plan; Density: 40 acres per unit; Slope Stability: High Instability (3).

Present Zoning:

Unclassified (U).

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 33,000 square feet of existing outdoor commercial cannabis cultivation with 3,160 square feet of ancillary propagation. Estimated annual irrigation water usage of 200,000 gallons will be sourced from rainwater catchment and a groundwater well. Water storage is provided by a 250,000-gallon pond. Processing, including trimming, will occur onsite. Electricity is provided by solar power with a generator reserved for emergencies only. A Special Permit is included because the project is within 600 feet of Public Lands managed for open space and requires a setback reduction. Irrigation water will be sourced from rain collected in a 250,000-gallon pond. Due to the history of ground disturbance, impact to biological resources is unlikely to be significant, however, a series of timber removal projects after 2016 and subsequent conversion following the development of both cannabis and non-cannabis related uses on those harvested areas requires timber restoration. Access is from Thomas Road and there will be a maximum of 5 employees at peak operation.

Water Resources:

Estimated annual water use is 200,000 gallons (6.06 gal/SF) and is provided by rain catchment and a permitted well (18/19-0465). Water storage for irrigation occurs in nine, 2,500-gallon poly water tanks and a 250,000-gallon rain catchment pond totaling 272,500 gallons. The well is used for both domestic and irrigation use so the project is conditioned requiring installation of water meters to track both uses (**Condition A3**).

A Lake and Streambed Alteration Agreement (LSAA) with the California Department of Fish and Wildlife (CDFW) has been issued (1600-2018-0753-R1). The LSAA addresses multiple cannabis and non-cannabis encroachments, including one point of diversion for domestic use, the pond spillway,

decommissioning/remediation of a graded flat, and three stream crossings. The stream crossing encroachments involve decommissioning the dirt ford crossings. The point of diversion shall not be utilized for commercial irrigation purposes and shall be used only for domestic use (**Condition B1**). The project has been conditioned to comply with the LSAA and adhere to prescribed reporting measures to the satisfaction of CDFW (**Condition C21**). Following their August 8, 2024 site visit, CDFW provided comment requesting completion of certain items from the LSAA prior to cultivation occurring in 2025. This includes work on two stream crossings and the installation of wildlife exit ramps on the pond. The project is conditioned accordingly (**Condition A2**). CDFW also requested the applicant provide a water plan and address soil management areas (**Condition A2**).

According to the Well Completion Report (**Attachment 4H**), the well is drilled to a depth of 270 feet and is screened intermittently between 120 and 260 feet. Rock strata in the screened area includes dry bluishale stone and water bearing basalt. According to the Humboldt County WebGIS and the State Water Board Stream Classification Finder, there are five watercourses located within 1,000 feet of the well. The surface water features nearest to the well are a series of unnamed intermittent watercourses 500-600 feet to the north which drain to Salmon Creek. The headwaters of each of these watercourses are located at the same elevation as the bottom of the well. All the waterways drain away from the location of the well. The intermittent nature of the waterways and their separation from the location of the well make it unlikely the well is hydrologically connected. This watercourse drains into Salmon Creek, which is an important resource for fisheries and recreational opportunities. Salmon Creek contains important habitat for fish. Salmon Creek is more than 1,500 feet away from the well. The water bearing unit of the well is over 300 feet above the elevation of the creek at its nearest point and therefore any direct hydrologic connection between the well and the creek is unlikely. Given the fact that the well is unlikely to have a direct connection, the use of the well for irrigation purposes will not cause any significant adverse impact to Salmon Creek, 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.

A Site Management Plan was provided in accordance with the State Water Resources Control Board General Order WQ 2019-0001-DWQ as well as a Notice of Applicability. The applicant has been conditioned to implement all recommendations in the Site Management Plan (**Condition C15**). These improvements include maintenance on the seasonal road to maintain rolling dips and to regularly inspect culverts to maintain flow.

The Division of Environmental Health referral resulted in a response requesting that no processing be allowed until a suitable onsite waste treatment system is permitted and constructed (**Condition A8 and B2**). The referral response also requested the groundwater well be permitted, but the applicant has since obtained a permit after the response was generated.

Biological Resources:

Staff reviewed various sources including the California Natural Diversity Database, Biogeographic Information and Observation System, Northern Spotted Owl Viewer, and US Fish and Wildlife Service Information for Planning and Consultation. At least one known Northern Spotted Owl Activity Center occurs within 0.9 miles of the cultivation sites. To avoid and minimize potential impact to Northern Spotted Owl, the applicant shall ensure that combined decibel level for all noise sources shall be no more than 50 decibels at the edge of adjacent forest habitat or 100 feet away from the source, whatever is closer, and no more than 60 decibels at the property line. In the event of a conflict between noise standards, the operator will follow the standard which is more protective (**Condition C2**).

The CDFW provided comment recommended installation of multiple wildlife exit ramps for rainwater catchment pond and development of Bullfrog Management Plan (**Condition A2**). The proposed project will utilize the pre-existing disturbed areas created prior to baseline. The project has been conditioned to ensure supplemental lighting associated with the nursery and mixed light cultivation adheres to Dark Sky Association standards including security lighting (**Condition A1 and C3**). Permit conditions of approval also prohibit using synthetic netting (**Condition C5**), ensure refuse is contained in wildlife-proof storage (**Condition C6**), and prohibit use of anticoagulant rodenticides to further protect wildlife (**Condition C8**). 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. Water storage tanks within the streamside management area and water lines located within stream channels shall be removed (**Condition A13 and A15**).

Onsite Relocation and Restoration:

Approximately 10,000 square feet of cultivation was relocated on site. The original cultivation areas were within riparian buffers and spread across the parcel. The applicant provided a relocation justification (**Attachment 4E**). The relocated cultivation areas are consolidated with other cultivation on site in the center of the parcel, adjacent to the main road serving the parcel. This relocation occurred between 2018 and 2020. The original cultivation clearings are to be reforested, according to the restocking plans (**Attachments 4C and 4D**) (**Condition A9**).

Energy:

The primary source of electrical power is a 3.8kW solar array for both domestic and agricultural uses. For emergency and backup purposes, a 25k MQ Power Whisper generator is also on site to use when needed. Usage is on average 128 kWh per day from March to November, depending on the need for and duration of ventilation, and use of farming equipment. The generator is housed in a generator shed for noise attenuation when in use. The project is conditioned to transition from generator power to a renewable source no later than December 31, 2025 reserving generator use for emergencies only (**Condition A12**).

Access:

The referral response from Public Works requested a Road Evaluation. A Road Evaluation

(Attachment 4F) was provided on June 5, 2018 by Six Rivers Construction and Consulting but wasn't prepared by a licensed civil engineer which is required when roads don't meet Category 4 standards. A Road Evaluation **(Attachment 4G)** was prepared by an engineer for a nearby project and has been included as additional evidence. The road is unpaved and the narrative described some segments of the access road as Category 4, while other sections were too narrow to be category four. Thomas Road, also identified as Upper and Lower Samuels Ranch Loop Road, the segment beyond the county-maintained road, was reported as being more than 20 feet wide, functionally being equivalent to a Category 4 road. Because some of the road is not developed to Category 4 standards, the applicant is required to join an existing or form a new road maintenance association and provide evidence of membership or pay their fair share toward road improvements and maintenance **(Condition A5)**.

Geologic Suitability:

The project parcel is mapped in the County GIS as high instability. The majority of the parcel is mapped as 15% slope or steeper. The original cultivation site was on steep slopes but was relocated to an area where the slope is less than 15%.

Timber Conversion:

Between 2010 and 2016, a total of 2.47 acres of timberland were converted to agricultural use without review or approval. An additional 0.24 acres were converted between 2020 and 2022. Conversion occurred at seven sites. A Timberland Conversion Evaluation **(Attachment 4C)** was prepared by Timberland Resource Consultants to address unpermitted conversion and identify corrective actions for each of the five sites converted before 2016 and a second Timberland Conversion Evaluation **(Attachment 4D)** was prepared to address the two sites converted between 2020 and 2022. Additionally, a timber restocking plan was submitted with recommendations for restocking the converted areas.

Approximately 2.04 acres of cultivation area converted prior to 2016 for the benefit of cannabis cultivation are identified as areas where cultivation will continue following approval, and approximately 0.42 acres will be decommissioned and restocked with timber. The 0.24 acres of land converted after 2020 will be retained as cultivation area by proxy being an onsite relocation of a portion of the 0.42 acres to be reforested. An additional 0.87 acres had trees removed but the timberland wasn't converted. The applicant will remove any constructed or non-native material except solar panels from the 0.87 acre area and avoid use and/or development of the area to allow natural regeneration without further disturbance **(Condition A10 and A11)**.

The restocking plans recommend planting Douglas-fir seedlings at a spacing of 10 feet by 10 feet for 435 trees per acre, however if deer browsing is expected, then density can be slightly increased. The area to be planted at the bladder site is approximately 0.12 acres requiring 50 conifer seedlings. Cultivation site 3 is approximately 0.30 acres and would require 130 conifer seedlings to be planted. The project has been conditioned to implement all recommendations from the restocking plans **(Condition A9)**.

Security and Safety:

The security plan for the operation includes locked gates, low intensity lighting, motion lights, and use of security cameras.

Tribal Consultation:

A cultural Resources Investigation was prepared by William Rich, M.A. of William Rich and Associates in December 2018. No artifacts, features, deposits, or any other historic cultural resources, including tribal cultural resources, were found during the field survey conducted for the report. No further archaeological studies are recommended for permit approval. The Bear River Band of the Rohnerville Rancheria reviewed the Investigation and recommended the inadvertent discovery protocol be applied to the project (**Condition C1**). Representatives from the Intertribal Sinkiyone Wilderness Council did not respond to a request for comments.

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 parcel is located in the South Fork Eel Planning Watershed. The permit cap in that watershed is 730 permits, and the acre cap is 251 acres. With the approval of this Conditional Use Permit, the total approved permits in this Planning Watershed would be 307 permits and the total approved acres of cultivation would be approximately 84.93 acres.

Environmental Review:

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 4)

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Planning Commission could elect to add or delete conditions of approval.
2. The Planning Commission could deny approval if unable to make all the required findings.

Staff has concluded the required findings in support of the proposal can be made. Consequently, staff does not recommend further consideration of these alternatives.

ATTACHMENTS:

1. Resolution
 - A. Conditions of Approval
 - B. Cultivation Operations Plan w. Addendum
 - C. Site Plan
2. Location Map
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
 - A. Site Management Plan
 - B. Lake and Streambed Alteration Agreement
 - C. Timberland Conversion Evaluation 08.15.2018
 - D. Timberland Conversion Evaluation 04.26.2018
 - E. Relocation Justification
 - F. Road Evaluation from Applicant
 - G. Road Evaluation from Application 10653
 - H. Well Completion Report
5. Referral Agency Comments and Recommendations
 - A. Division of Environmental Health Response
 - B. CDFW Comments
 - C. CalFire Response
6. Watershed Map

APPLICANT AND OWNER INFORMATION:

Applicant

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Owner

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Agent

File #: 24-1545

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Please contact Collin Slavey, Planner, at cslavey@co.humboldt.ca.us or 707-445-7245 if you have questions about this item.