

## Mountain Creek Farms and Research Facility

Record Number: PLN-11806-CUP

Assessor's Parcel Number: 217-391-006

### Recommended Commission Action:

1. Describe the application as part a public hearing;
2. Request that staff present the project;
3. Open the public hearing and receive testimony; and
4. Close the hearing and take the following action to approve the application:

*Adopt the Resolution to 1) find that the Commission has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) pursuant to Section §15164 of the State CEQA Guidelines, 2) make all of the required findings for approval of the Conditional Use Permit and 3) approve the Mountain Creek Farms and Research Facility project as recommended by staff subject to the recommended conditions.*

**Executive Summary:** Mountain Creek Farms and Research Facility seeks a Conditional Use Permit to allow the continued cultivation of 22,340 square foot (SF) of cannabis 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 (RA40) in the Humboldt County 2017 General Plan Update and zoned Forestry Recreation (FR-B-5(40)). Cultivation takes place in the northern portion of the subject property and consists of 5,140 SF of mixed light cultivation grown in three (3) greenhouses, 12,800 SF of outdoor cultivation in ten (10) greenhouses utilizing light deprivation techniques, and 4,400 SF of full sun outdoor. Ancillary propagation does not occur onsite. Two (2) harvests are anticipated annually for the mixed light and outdoor light deprivation greenhouses and one (1) annual harvest is anticipated in the full sun outdoor area.

Drying and bucking occurs onsite, while all other processing occurs offsite at a licensed processing or manufacturing facility. A maximum of three (3) persons will be onsite during peak operations. Power for cultivation is sourced from onsite solar panels and supplemented with generators. The generators utilized onsite consist of the following ratings: one (1) 30KW, one (1) 7KW, and four (4) 3KW. The operation is secured behind a locked entry gate located off Alderpoint Road.

### Water Resources

Estimated annual water usage is 221,559 gallons (9.9 gal/SF) with peak demand occurring in August at approximately 61,860 gallons. Water for irrigation will be provided by an existing 1,200,000-gallon onstream pond. A review of aerial imagery from the Humboldt County WebGIS shows the pond has been in existence since before 2005. The pond currently has an Statement of Water Diversion and Use (S027000) on file with the State Water Resources Control Board (SWRCB). Conditions of approval require the applicant to obtain a Right to Use and Divert Water or other appropriative water right from the SWRCB as requested by the SWRCB in their referral comments (see Attachment 4). The applicant is also required to notify the California Department of Fish and Wildlife for use and maintenance (as applicable) of the pond and comply with all terms and conditions of the Final Streambed Alteration Agreement. The current catchment area for rainwater accumulation consists of the pond surface area and has an area of approximately 22,400 square feet. The average rainfall within the Alderpoint/Blocksburg area over the last ten (10) years is 63.6 inches. Using a conversion factor of 0.623, there is an average potential volume of rainwater catchment of 888,000 gallons, which is sufficient to meet the needs of the project. Water storage onsite is 1,210,500 gallons consisting of the catchment pond and various hard sided tanks.

A Site Management Plan (SMP) was prepared by Green Road Consulting, dated April 5, 2019 (Attachment 3), that includes recommended best practices for erosion control, monitoring irrigation volumes to prevent runoff, and utilizing a secure storage facility for all cultivation-related materials consistent with the SWRCB Order WQ 2017-0023-DWQ - General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities. The site contains Class I and Class II watercourses and the SMP recommends

various improvements to protect water quality and maintain necessary crossings. The site also contains three (3) rainwater catchment ponds of 70,000, 430,000, and 1,200,000 gallons respectively. Only the 1,200,000-gallon onstream pond is used to support cultivation activities and the other two ponds are utilized for aesthetics only. The project is conditioned to implement all remaining corrective actions detailed in the SMP, require the applicant to monitor water use from the pond and water tanks annually to demonstrate there is sufficient water available to meet operational needs, submit a final Lake or Streambed Alteration Agreement once available, and comply with forbearance requirements for the onstream pond. Additionally, conditions of approval require the applicant to obtain and maintain appropriate water rights/permits for the onstream pond from both the SWRCB and California Department of Fish and Wildlife (CDFW).

According to Humboldt County WebGIS and as depicted on the Site Plan, Larabee Creek (Class I) traverses the eastern portion of the site, with an unnamed Class II watercourse traversing the southern portion of the site. Although not shown on the County WebGIS, the site plan depicts a second unnamed Class II watercourse within the northeastern portion of the site. As the site plan does not depict the respective Streamside Management Area (SMA) buffers, the project is conditioned to require the applicant submit an updated site plan depicting the respective SMA buffers and setback distances of all cultivation areas from the onsite ponds and required SMA buffers. Based on review of the County WebGIS and site plan, all cultivation areas are located outside of the required SMA buffers.

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 Lower Eel Watershed, which under Resolution 18-43 is limited to 336 permits and 116 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 67 permits and the total approved acres would be 30 acres of cultivation.

### **Biological Resources**

A search of CDFW California Natural Diversity Database (CNDDDB) biological resources database was performed on October 4, 2021. No special status species were documented onsite, and the nearest Northern Spotted Owl (NSO) activity center is located approximately 1.27 miles from the project area. The project will be designed so that noise and light does not impact wildlife. Conditions of approval require light and noise attenuation measures. Additionally, the project will follow all applicable rules of Dark Sky Standards for lighting associated with security. The project is conditioned such that generators shall have secondary containment for fluid catchment and noise attenuation, and noise generated from generators shall not exceed 50 decibels (dB) at 100 feet from the generator or at the edge of the nearest forest habitat, whichever is closer, as required by Section 314-55.4.11(o) Humboldt County Code. The project is also conditioned to avoid heavy equipment operations during NSO critical period (February 1 – July 31) or perform protocol level surveys prior to initiating that work. Further, conditions of approval require the applicant to 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.

### **Timber Conversion**

A Timber Conversion Evaluation Report was prepared by Blair Forestry Consulting in October 2019 (Attachment 3), which notes that approximately 0.37 acres of the 40-acre site has been converted within three (3) unauthorized conversion sites, which is below the three-acre conversion exemption maximum. The Report notes that the property remained unchanged as far back as 1998, except for the installation of two (2) onsite ponds, which were installed sometime prior to 2004. Additionally, a relatively small number of trees were removed in three (3) areas to facilitate cannabis cultivation between 2016 and 2018, which is after the CMMLUO baseline date of January 1, 2016. The area where the conversion occurred is dominated with oak woodland, interspersed with large and small Douglas-fir, madrone, and live oak. The Report concludes the past unauthorized conversion activities did not entirely meet the standards set forth in the California Forest Practice Rules and recommends the areas depicted on the Timberland Conversion Evaluation Map be replanted as detailed in the Report.

To remedy unauthorized timber conversion after the CMMLUO environmental baseline date of January 1, 2016, the applicant/owner will be responsible for mitigating the environmental impacts not analyzed in the environmental document prepared for the CMMLUO. The project is conditioned to require the property be evaluated by a Registered Professional Forester (RPF) to determine the amount of timber conversion that occurred prior to and after the CMMLUO baseline date. The applicant/owner shall restock an area onsite equivalent to the amount of area converted after the CMMLUO baseline date at a rate of 3:1. Further, the project is conditioned to require preparation of a Restocking Plan within 90 days of project approval and implement the Restocking Plan within a period of two (2) years. The Restocking Plan shall include details on the locations and total areas to be restocked, the type, number, and spacing of the plantings, and a monitoring plan for three (3) years which includes performance evaluations, performance standards, and contingency measures should performance standards not be met. 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.

### **Access**

Access to the site is via a private drive on Homestead Road, a non-County-maintained road, which is accessed from Sunset Ridge Road, a non-County-maintained road, which is accessed from Alderpoint Road, a County-maintained road. The subject parcel is located adjacent to Alderpoint Road, but direct access requires travel on approximately 300 feet of Sunset Ridge Road and 200 feet of Homestead Road. A Road Evaluation Report was prepared by the applicant (dated June 6, 2019; Attachment 3) for a 0.2-mile segment of the private driveway from Alderpoint Road, which indicates that the roadway meets a Category 4 road equivalent standard and is adequate for the proposed use. The submitted road evaluation included sufficient photographic evidence to verify the roadway condition as described, including roadway width and line of sight. Per comments received from the Department of Public Works, Land Use Division in March 2020, all driveways and public road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance), and any existing or proposed non-county maintained access roads that will serve as access for the project that connect to a County maintained road shall be improved to current standards for a commercial driveway. Such improvements required include paving the access road (Sunset Ridge Road) for a minimum width of 20 feet and a length of 50 feet where it intersects the County road (Alderpoint Road), which has been included as a condition of approval.

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). 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.

**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.