

## Dyerville Farms, LLC

Record Number: PLN-12424-CUP

Assessor's Parcel Number: 216-144-017

### 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:

Adopt the Resolution to:

1. Find that the Commission has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Land Use Ordinance (CCMLUO), as described by Section §15164 of the State CEQA Guidelines;
2. Make the required findings for approval of the Conditional Use Permit; and
3. Approve the Dyerville Farms, LLC Conditional Use Permit and Special Permit as recommended by staff subject to the recommended conditions.

**Executive Summary** Dyerville Farms, LLC seeks a Conditional Use Permit (PLN-12424-CUP) for an existing 24,634 square feet (SF) of cannabis cultivation, consisting of 22,380 SF outdoor cultivation and 2,254 SF mixed light cultivation; and a Special Permit for work within the Streamside Management Area (SMA) involving work on culverts, as recommended by the Water Resources Protection Plan. Plants are propagated in a 2,830-SF ancillary propagation area. The applicant is conditioned to reduce the size of the ancillary propagation area to 2,465 SF, or 10 percent of the total cultivation area (**Condition 9**).

Irrigation water is sourced from one (1) groundwater well (Permit No. 19/20-0813) that is hydrologically disconnected from surface water (per evaluation by David N. Lindberg, Certified Engineering Geologist). Estimated annual water use is 313,600 gallons (12.7 gal/SF). Water is stored onsite in three (3) 5,000-gallon tanks, two (2) 2,800-gallon tanks, and one (1) 500-gallon tank. Total water storage is 21,100 gallons.

The project area is located on mountainous slopes with high instability. The present land use designation is Agricultural Grazing (AG), as defined in the Humboldt County 2017 General Plan Update, and the 183-acre parcel is zoned as Agriculture Exclusive (AE) and Special Building Site [B-5(160)]. Five (5) employees are required for project operations. The primary source of electrical power is a solar array with battery storage. An Isuzu BV-4LE1 26.3 kW diesel generator is used for backup.

### Water Resources

Irrigation water is sourced from one (1) groundwater well (Permit No. 19/20-0813) that is capable of pumping 40 gallons per minute (gpm). The well was evaluated by David N. Lindberg, Certified Engineering Geologist (CEG, License No. 1895), of Lindberg Geologic Consulting (May 3, 2022). The evaluation determined that the well has a low likelihood of being hydrologically connected to nearby surface waters in any manner that could affect adjacent wetlands or surface waters in the vicinity. This conclusion was reached because the well is located 1,500 feet away from the nearest surface waters, and the elevation of the well is 270 feet above the nearest surface waters. The applicant is conditioned to install monitoring devices on the well to measure use (**Condition 10**).

A search of the California Department of Water Resources (DWR) database revealed only one (1) well within 1,000 feet of the subject well. This well (WCR2018-010387) is located on the subject parcel and is, according to the applicant, not in use due to chemical constituents in the water that make it unsuitable for irrigation. The applicant is conditioned to cap this well (WCR2018-010387) to ensure that no water is withdrawn for irrigation purposes (**Condition 11**). All other wells in the vicinity of the project site are located more than 2,000 feet away.

Estimated annual water use is 313,600 gallons (12.7 gal/SF). Water is stored onsite in three (3) 5,000-gallon tanks, two (2) 2,800-gallon tanks, and one (1) 500-gallon tank. Total water storage is 21,100 gallons. The project area is located within the Steelhead Creek watershed.

A Water Resources Protection Plan (WRPP) was prepared in fulfillment of State Water Resources Control Board (SWRCB) General Order WQ 2019-0001-DWQ. The document was prepared to meet the North Coast Regional Water Quality Control Board (NCRWQCB) requirements for Tier 2 discharges of waste resulting from cannabis cultivation (WDID No. 1\_12CC417547). Except for one (1) natural seasonal spring, the project area does not include perennial surface waters or wetlands. The spring is isolated, does not have a well-defined channel visible down gradient, and is not hydrologically connected to other surface waters. There is one (1) stream crossing onsite (Crossing 1). The property is primarily a forested woodland with sloping hillsides, a ridgetop oak woodland, some flat plateaus, and sparse open grasslands. The applicant seeks a Special Permit for work within the Streamside Management Area (SMA) involving work on culverts, as recommended by the WRPP.

The WRPP identifies recommendations designed to decrease erosion and sedimentation of waterways. These recommendations include installing four (4) rocked rolling dips on a road segment experiencing surface rilling and installing rock armoring to fortify two (2) existing culverts (**Conditions 12 and 13**).

A Lake and Streambed Alteration Agreement (LSAA) has been filed with the California Department of Fish and Wildlife (CDFW) to address all work to be done within the waterways (Notification No. 1600-2017-0147-R1). The LSAA addresses three (3) project encroachments, including two (2) points of diversion from Steelhead Creek (POD-1 and POD-2) and a stream crossing (Crossing 1). The applicant is required to armor the inlet/outlet and banks at Crossing 1 to minimize erosion (**Condition 14**).

An onstream pond is on or adjacent to the project area and will require land survey validation to determine the remediation party. The applicant shall submit appropriate land survey validation to Humboldt County within two (2) months of project approval documenting ownership of the pond. If the pond is not under the ownership of the property owner or applicant associated with this project, no further action is required. If the pond is under the ownership of the property owner or applicant associated with this project, the applicant shall coordinate with CDFW to determine appropriate actions to remediate the pond (**Condition 15**).

The LSAA establishes specific recommendations that the applicant must apply to offset potential impacts to waterways within the area (**Condition 16**). The recommendations are summarized as follows:

- All activities that occur within waterways in the project area shall be documented.
- All work shall be confined to the dry weather period, from June 15 through October 1 of each year.
- Water diversion structures shall be constructed and maintained to not inhibit the movement of aquatic life.
- Erosion and runoff protection measures shall be placed and maintained along streambanks prior to any construction activities.
- Project work shall be completed by no later than August 2, 2022. If work cannot be completed by this date, the applicant shall complete a revised LSAA signed by CDFW certifying an extension of the deadline.

### **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 the Middle Main Eel Planning Watershed would be 97 permits and the total approved acres would be 42.63 acres of cultivation.

### **Biological Resources**

A list of potential special status species near the project area was generated in May 2022 using the

following information systems: California Natural Diversity Database (CDFW 2021), Biogeographic Information and Observation System (BIOS), Northern Spotted Owl Viewer (CDFW 2021), and US Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC). There is a known occurrence of one (1) special status species within two (2) miles of the project area: the foothill yellow-legged frog (approximately 6,000 feet to the northeast). Project activities are not expected to produce adverse or cumulative effects to any special status species or habitat, due to the small size of the project area and the type of proposed activities. Therefore, potential project impacts to biological resources are considered low and unlikely, with implementation of the mitigation measures identified in the CMMLUO Mitigated Negative Declaration (MND) adopted on January 26, 2016.

### **Tribal Cultural Resource Coordination**

An archaeological survey report was prepared by Nick Angeloff of Archaeological Research and Supply Company (August 2019). A field survey conducted by Mr. Angeloff in August 2019 identified no historic resources within or adjacent to the project area. Therefore, the project is not anticipated to have an adverse effect on significant cultural resources. However, the report recommends establishing protocols to protect cultural resources and/or human remains which may be discovered inadvertently during project work. Therefore, the standard Inadvertent Discovery Protocol will be used to protect artifacts or remains that may be discovered during project work (**Condition 17**).

Consultation letters were sent to Native American groups associated with the project area. The Native American Heritage Commission (NAHC) indicated that no known cultural resources are present in the area. The Bear River Band of the Rohnerville Rancheria requested a field visit and a copy of the final report. The Sinkiyone Intertribal Wildness Council did not respond to requests for information.

### **Access**

The project is located on the east side of Dyerville Loop Road, approximately 0.42 miles north from the intersection of Ross Road and Dyerville Loop Road, in the Garberville area of southern Humboldt County. Using forms provided by Humboldt County Department of Public Works (DPW), the applicant evaluated Dyerville Loop Road and found it to be developed to a road category 4 standard. DPW recommended standard conditions relating to fences/encroachments and driveway and private road intersection visibility be applied to the project (**Conditions 18 and 19**). The project is located in a Federal Aviation Administration (FAA) zone and requires an aviation easement (**Condition 20**).

### **Timberland Conversion**

Aerial imagery shows that unauthorized conversion of approximately 0.90 acre of timberland to cultivation area occurred prior to 2018 at three (3) sites: Cultivation Site 1 (0.09 acre), Cultivation Site 2 (0.78 acre), and Drying Shed (0.03 acre). A Timberland Conversion Evaluation Report (TCER) was prepared by Timberland Resource Consultants (December 21, 2018) to address unpermitted conversion areas. The report recommends that the applicant treat all slash piles and woody debris near Cultivation Site 2 using one of the following methods: burying, chipping and spreading, piling and burning, or removing from the site (**Condition 21**).

### **California Environmental Quality Act (CEQA)**

Environmental review for this project was conducted in May 2022 by the County. Based on the results of that analysis, staff finds that all aspects of the project have been considered in the Mitigated Negative Declaration (MND) adopted for the Commercial Medical Marijuana Land Use Ordinance on January 26, 2016. Accordingly, staff has prepared an addendum to this document for consideration by the Planning Commission. See **Attachment 2** for more information.

**RECOMMENDATION:** Based on a review of Planning and Building Department 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 Permit (SP).

**ALTERNATIVES:** The Planning Commission could elect to 1) not approve the project, or 2) 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 which case, the Commission should continue the item to a future date at least two months later to provide staff adequate time to complete further environmental review.