

Recommended Commission Action

1. Describe the application as part of a public hearing.
2. Request staff to present the application and staff report;
3. Open the public hearing and receive testimony;
4. Close the public hearing and adopt the Resolutions to take the following actions:

1) Find that the Commission has considered the Addendum to the adopted Mitigative Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) as described by Section §15164 of the State CEQA Guidelines, 2) make all of the required findings for approval of the Conditional Use Permit and Special Permits and 3) approve the Full Moon Farms Inc. Conditional Use Permit and Special Permits as recommended by staff subject to the recommended conditions.

Executive Summary: Full Moon Farms Inc. seeks a Conditional Use Permit for 19,661 sq. ft. of pre-existing outdoor cannabis cultivation. Water for irrigation is sourced from two (2) spring diversions on-site under Water Right Certificate H100541. A Special Permit is being requested to allow the continued use of the spring diversions, and to relocate water tanks outside of the streamside management area (SMA) for a spring and a class III stream on-site. An additional Special Permit is required for the removal of an on-stream pond and restoration of the stream. A total of 194,500 gallons of water storage for irrigation exists, and two (2) 2,500 gallon tanks are designated for fire suppression. Annual water usage is 124,000 gallons (6.3 gal/sq. ft./year). Drying and curing will occur on-site and trimming will occur off-site at a licensed processing facility. Two (2) employees will be utilized. Electricity is sourced from two (2) portable generators.

The project will consist of 14,400 sq. ft. of outdoor light-deprivation cultivation in eighteen (18) hoop houses, and one 5,261 sq. ft. full-sun outdoor cultivation area. The applicant will purchase clones from an off-site licensed nursery. Two (2) harvests are anticipated for light-deprivation cultivation, and one harvest for full-sun outdoor. Other buildings with a nexus to cannabis include one (1) 15' x 30' Dry Barn, and one (1) 5' x 10' Generator Shed. As well, some historic grading has occurred in association with the cannabis cultivation site. The project is conditioned to obtain the appropriate building permits for all structures related to cannabis (**Condition A.7**), and for any historic grading that was done in excess of 50 cubic yards (**Condition A.8**).

The project was referred to the Department of Environmental Health (DEH) on July 18, 2018. Comments were received from DEH on December 13, 2017, which included the recommendation of conditional approval for the project that the applicant shall provide an invoice, or other equivalent documentation to confirm the continual use of portable toilets to serve the needs of cultivation staff prior to reissuance of an annual permit (**Ongoing Condition B.1**).

Energy

The project currently utilizes two (2) portable generators, one 6.5kW Honda generator and one 1kW Honda EU generator. The applicant is conditioned to transition to 100% renewable energy source for the project by the 2026 cultivation season, and after transition shall be allowed to keep one generator on-site for emergency backup purposes only (**Condition A.9**). The applicant shall provide an Energy Plan to the Planning Division to show how all power required by the project will be sourced 100% by renewable energy sources (**Condition A.9**).

Setbacks

The project site contains five (5) 2,500-gallon water tanks which are located within the SMA of a spring and one class III stream on-site. Per the Humboldt County's Streamside Management Area and Wetlands Ordinance, and the required SMA setbacks per the State Water Board's Order R1-2015-0023, the applicant shall relocate the existing tanks outside of the SMA's on-site. The applicant shall also submit a

Stream Restoration Plan addressing the relocation of water tanks outside of SMA's on-site to the California Department of Fish & Wildlife (CDFW) and to the Planning Division, and shall adhere to the recommendations within the report (**Condition A.10**). The applicant shall also provide an updated Site Plan to the Planning Division to show the relocation site for the water tanks.

Timber Conversion & Fire Safety

No timber conversion has occurred on the site, and none is proposed as part of the project. The project was referred to CalFire on July 18, 2017, and the agency commented on July 20, 2017, with a general letter outlining State Responsibility Area (SRA) requirements on-site. The project is located in an area designated to have a Very High Fire Hazard Severity. The applicant has identified two (2) 2,500-gallon water tanks designated for fire suppression, and the site has ample room for a firetruck turnaround. The project is within the Ruth Lake Community Services District (RLCSD) for fire response. The project was referred to the RLCSD on July 18, 2017, and no response was received from the agency.

Water Resources

Water for irrigation is provided by two (2) on-site spring diversions under Water Right Certificate H100541. The applicant shall abide by all conditions and limitations set forth within the Right to Divert & Use Water Certificate H100541 (**Ongoing Condition B.2**). The applicant has also obtained a Streambed Alteration Agreement (SAA 1600-2019-0590-R1) with the CDFW for the use and maintenance of these spring diversions, and the applicant is applying for a Special Permit to approve the continued use of the spring diversions for cannabis irrigation. The applicant is required to abide the forbearance period required by the State Water Board and CDFW, and shall not divert water during any designated forbearance period (**Ongoing Condition B.2, & B.19**). The SAA states that the applicant will be using the two (2) spring diversions for domestic and irrigation purposes, and the applicant shall monitor the diversion and use of domestic and irrigation water separately, and shall keep records of separate uses on-site to be furnished during an annual inspections (**Condition A.11**). Total annual water demand for the project is 124,000 gallons per year (6.3 gal/sq. ft./year). There is a total of 192,500 gallons of existing water storage in hard tanks for irrigation needs, and there are two (2) 2,500-gallon tanks designated for fire suppression.

The site was historically enrolled in the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R-1-2015-0023, under WDID 1B70540CHUM. A Water Resource Protection Plan (WRPP) was prepared for the project by Timberland Resource Consultants (TRC) dated September 20, 2018. The WRPP states that all cultivation areas are located outside of any SMA on-site, and mentions that the site was not meeting all standard conditions required by the Water Board Order No. R-1-2015-0023. The WRPP lists General Recommendations for the site to meet the standard conditions, which include upgrades to roads on-site, the replacement of culverts, and the need for additional water storage to meet the forbearance period. The applicant has completed General Recommendations #4 & #5 addressing water storage to meet forbearance requirements, and the applicant shall continue to comply with the ongoing General Recommendations #1 - #3, and #6, along with adhering to the ongoing monitoring recommendations listed within the Mitigation Report of the WRPP (**Ongoing Condition B.3**).

The site has also been enrolled in the State Water Board's General Order 2019-0001-DWQ under WDID 1_12CC418732, as a Tier 1 Low Risk site. A Notice of Applicability letter dated September 24, 2019 is attached for proof of enrollment in the General Order. The applicant is required to have a Site Management Plan (SMP) prepared for the project to show measures required to meet compliance with the General Order, and a condition of approval for the project is to provide a copy of the final SMP report to the Planning Division when available, and to adhere to the measures outlined within the final SMP Report (**Condition A.12**).

The applicant has obtained a Streambed Alteration Agreement (SAA 1600-2019-0590-R1) with the CDFW for the instream work required to replace and upgrade four (4) culverts on-site, the use and maintenance of two (2) spring diversions for irrigation and domestic purposes, and for the removal of an on-stream pond and restoration of the stream. The applicant is required to submit a Stream Restoration Plan to CDFW for the on-stream pond removal, and shall submit the final approved Stream Restoration Plan to the Planning Division when available (**Condition A.13**). The applicant shall adhere to the

maximum diversion rate, bypass flow, and seasonal diversion rate requirements for the spring diversions, shall complete all the work described in, and shall adhere to the conditions outlined in the SAA 1600-2019-0590-R1, for work to be completed (**Ongoing Condition B.19**).

Biological Resources

The project site does contain habitat for Oregon goldthread, according to the California Natural Diversity Database (CNDDDB) Resource Map, and the nearest Northern Spotted Owl (NSO) activity center is located approximately 2.16 miles from the nearest cultivation site. As the site is for pre-existing activities and no new development is proposed, no Biological Report was required for the proposed project. The project was referred to CDFW on July 18, 2017, and no response was received. The applicant is conditioned to house all generators within permanent shed locations, and all generators shall not exceed 50 decibels at 100 feet or the nearest canopy, whichever is closer (**Ongoing Condition B.4**).

Tribal Cultural Resource Coordination

The project is located within the Bear River Band tribal aboriginal territory. The project was referred to the Bear River Band THPO and the Northwest Information Center (NWIC) on August 1, 2017. The NWIC responded with a recommendation that the lead agency contact the local Native American tribe(s) regarding tradition, cultural, and religious heritage values. A response was received from the Bear River Band THPO on August 7, 2017, requesting the applicant obtain a cultural resource survey (CRS) for the project. The applicant had a CRS prepared by Mark Arsenault, M.A., RPA with Arsenault & Associates, dated March 29, 2019. The CRS found that no new cultural resources or isolated artifacts were identified within the project study area, and concluded that the project would not result in any adverse change to cultural resources. The CRS recommends protocols for Inadvertent Discovery. The project is conditioned to adhere to inadvertent discovery protocols in the event that cultural resources are encountered during project activities (**Informational Note B.3**).

Access

The project site is accessed by Bear Creek Road, from Dinsmore Road off of Hwy 36. Bear Creek Road and Dinsmore Road are non-county maintained roads, and the project was referred to the Department of Public Works on July 18, 2017. Comments were received by the Department on August 14, 2017, recommending that the project be referred to CalTrans. The project was referred to CalTrans on September 7th, 2017, and again on February 5, 2019, and no comments were received. The applicant has submitted a Road Evaluation Report form for both Bear Creek Road and Dinsmore Road, designating both roads as being developed to the equivalent of a Category 4 road standard. The Road Evaluation Report included a route map and pictures of the access road which show adequate visibility and turnouts. The access road has been determined to meet the functional capacity needs for the project.

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 cultivation permits and acres which may be approved in each of the County's Planning Watersheds. The project site is located in the Mad River Planning Watershed, which under Resolution 18-43 is limited to 334 permits and 115 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 61 cultivation permits and the total approved acres would be 23.17 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 Planning Commission (See Attachment 2 for more information).

RECOMMENDATION: 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 (CUP) and Special Permits (SP).

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.