

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 find that the Commission has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) as described by Section §15164 of the State CEQA Guidelines, make all of the required findings for approval of the Conditional Use Permit and adopt the Resolution approving the Cedar Farm South, LLC Conditional Use Permit as recommended by staff subject to the recommended conditions.

Executive Summary: Cedar Farm South seeks a Conditional Use Permit for 17,200 SF of pre-existing outdoor cannabis cultivation with 1,700 SF of ancillary propagation. Water is sourced from a well, and the applicant has obtained a Well Assessment Report supporting the continued use of the well for irrigation. Supplemental water is proposed to come from a stream diversion on-site, which requires the approval of a Special Permit for the continued use and maintenance of a stream diversion within a streamside management area. Annual water usage is approximately 232,200 gallons of water for irrigation needs (12.29 gal/SF/yr). There are eight (8) 2,500-gallon hard tanks existing on-site and two (2) 2,500-gallon tanks are proposed for a total of 25,000 gallons of water storage. Power is sourced from three (3) generators and the project is conditioned to transition to 100% renewable energy by 2026.

Two (2) full-time employees, and up to three (3) part-time employees will be utilized for cultivation activities on-site. Portable toilets and hand washing stations will be available at the cultivation areas, and potable drinking water will be provided. The applicant shall provide receipts, or other equivalent documentation, annually to the Planning Division for proof of portable toilet service, unless a permitted onsite wastewater treatment system has been obtained (**Ongoing Condition B.1**). Trimming will occur off-site at a licensed processing facility, and the applicant shall have documentation kept on-site to show the use of an off-site licensed processing facility, to be furnished during an annual inspection (**Ongoing Condition B.2**).

The applicant is proposing to have five (5) 20' x 96' outdoor greenhouses, eighteen (18) 5' x 80' outdoor rows, and one (1) 20' x 80' ancillary propagation greenhouse. Other proposed structures include three (3) generator sheds, and one (1) metal building to be used for drying, curing and harvest storage. The project was referred to the Building Division on April 14, 2021, and a building inspection was conducted on October 12, 2021. Comments from the Building Division included a recommendation of approval based on the condition that all required permits are obtained. The applicant is conditioned to obtain building permits for all existing and proposed structures with a nexus to cannabis, including but not limited to: five (5) outdoor greenhouses, one (1) ancillary propagation greenhouse, three (3) generator sheds, and one (1) metal building (**Condition A.7**). Generator sheds must have a concrete floor designed to incorporate containment for fuel leaks and spills which must be located on a stable surface with a minimum 200-foot buffer from Class I and Class II streams (**Condition A.8**). Historic grading has occurred on the site in association with the cannabis cultivation. The applicant is conditioned to permit the historic grading that occurred in association to cannabis activities on-site, with the Building Division (**Condition A.9**).

This application includes the decommissioning of one historic cultivation area in the northern section of the parcel, which will be centrally relocated to an environmentally superior location on-site. A letter was received by RPF Jon Dylan Leonard, dated October 30, 2020, with the following environmentally superior justifications for relocation and restoration of the historic cultivation area: the consolidation of the cultivation site will eliminate the use of approximately 5,400 feet of roads on-site, the historic cultivation

site is located immediately adjacent to a neighboring parcel with ongoing illegal activity and relocation would improve security of property assets and increases safety for personnel, and the pre-existing site occupied an area on slopes greater than 17% and the proposed cultivation site will have less potential to impact soil and water resources. The applicant is required to restock the decommissioned cultivation area, discussed further in the Timberland Resources and Biological Resources sections below.

Fire Hazard

The parcel is located in an area known to have a Very High Fire Hazard Severity, and was hit by the Johnson Fire in 2015. The parcel is located outside of a local fire response area. Pursuant to the Humboldt County General Plan the applicant is required to cause to be recorded an "ACKNOWLEDGMENT OF NO AVAILABLE EMERGENCY RESPONSE AND FIRE SUPPRESSION SERVICES" for the parcel(s) on a form provided by the Humboldt County Planning Division (**Condition A.20**). The project is located within the State Responsibility Area (SRA) for CalFire, and was referred to the agency on April 14, 2021. Comments were received by CalFire on April 26, 2021, and the agency stated that they had no comments regarding the project at that time. The project site shows ample room for a firetruck turnaround, and is required to have a minimum of 2,500 gallons of water storage designated for fire suppression needs. The applicant shall designate a minimum of 2,500 gallons of on-site water storage for emergency fire suppression and is conditioned to provide an updated Site Plan to the Planning Division to show designated fire suppression water storage on-site (**Condition A.5**). The designated fire suppression tank shall also have the appropriate fire hose that meets CalFire SRA requirements (**Condition A.10**).

Timber Conversion

Unauthorized timberland conversion of approximately 3.21 acres occurred on the site, and approximately 1.75 acres of that was converted post-2016. The applicant had a Timber Conversion Evaluation Report (TCER) that was prepared by RPF Chris Carroll with Timberland Resource Consultants, dated November 19, 2018. A site inspection was conducted by the RPF on October 19, 2018, and the TCER states that there were a total of nine (9) sites evaluated for timberland conversion. Eight (8) of the sites were determined to be unauthorized conversion of timberland, and of those sites six (6) were historical log landings that were expanded to their current size in 2016. The TCER observed a total of 3.21 acres of unauthorized timberland conversion for cannabis cultivation, which exceeds the three-acre maximum. The RPF recommends that the applicant restore and remediate cultivation sites 1, 2, and 9 to productive timberland, which would lower the total conversion area to 2.71 acres (incorrectly stated as 2.92 acres in the TCER). The applicant is requesting to keep the landings open at Cultivation Sites 1 and 2 for future solar panel locations and no restocking is required at these sites. Restocking of Cultivation Site 9 will bring the total conversion area on-site to 2.92 acres, which is below the 3-acre maximum. The TCER found that no conversion activities have negatively impacted water resources, but that the conversion activities on the site do not comply with all standards of the California Forest Practice Act and the California Forest Practice Rules. The applicant shall adhere to the following revised recommendations within the TCER (**Condition A.11**):

- 1) Removal of cultivation-related activities at Cultivation Sites 1 and 2: Remove and remediate all cultivation infrastructure, materials, and waste within Cultivation Sites 1 and 2. Consolidate all cultivation activities to Cultivation Sites 3, 4, 5, 6, 7, and 8. (A letter from RPF Jon Dylan Leonard, dated October 30, 2020, states that during a site visit on October 12, 2020, it was observed that remediation of sites 1, and 2 was completed in the form of removal and cleanup of areas, and disturbed areas were stabilized by a combination of straw mulch, native grasses, or native rock, and all cultivation areas are consolidated. This condition is no longer applicable.)
- 2) Replant Cultivation Site 9: Replant native trees to CFPR's stocking standards (14 CCR 1071) within Cultivation Site 9. The RPF recommends the following:
 - i. Replant locally-sourced Group A commercial species (Douglas-fir seedlings, CA Seed Zone 312, Elevation 4,000-5,000 feet recommended) at a level of 450 trees per acre (approximately 10-foot uniform spacing between seedlings).
 1. Cultivation Site 9: The site is approximately 0.21 acres, so RPF recommends planting 90 trees.
 - ii. Monitor growth and success of planted seedlings to ensure a 300-point count stocking level is maintained 2-3 years after planting.

1. If seedling success is low, repeat the replanting process.
 2. Consider consulting an RPF for continued timber management in this area.
- 3) Slash and Woody Debris Treatment: Nearby Cultivation Sites 1, 2, 3, 4, 6, 7, and 8, treat all slash piles and woody debris as soon as possible (and during an appropriate time of year) using one of the following methods: burying, chipping and spreading, piling and burning, or removal from site.

After review of the TCER and aerial imagery, it was concluded that approximately 1.75 acres of unauthorized post-2016 timberland conversion occurred on the site with the expansion of the historic log landings, and the applicant is required to restock the post-2016 converted timberland on a 1-1 basis. As well, the applicant is required to restore and restock the 0.33 acres of the expanded historic cultivation area being decommissioned (Cultivation Site 8 in the TCER) and bring back to pre-2016 conditions. This brings the total required restocking area on-site to 2 acres of restocking. A Restocking Plan was prepared by RPF Jon Dylan Leonard with Timberland Resource Consultants, dated October 20, 2020. The TCER and the Restocking Plan were sent to CalFire on April 14, 2021, and the agency replied on April 26, 2021, stating that they had no comments regarding the project at that time.

The Restocking Plan includes the restocking of Cultivation Sites 1, 2, and 9 as recommended in the TCER, and includes an additional 1.5 acres for a total of 2 acres of restocking area. The applicant will be keeping the landings located at Cultivation Sites 1 and 2, and plans to restock Cultivation Sites 8, and 9. The 1.5 acres of additional restocking will occur within one of the potential restocking sites shown in the Restocking Plan & Site Plan maps, which will restock areas damaged by the 2015 Johnson Fire. The applicant will be restocking 2 acres in three locations on-site, and shall adhere to the following revised recommendations within the Restocking Plan for all restocking areas (**Condition A.12**):

- Site Preparation (as outlined in page 2 of the Restocking Plan) shall occur at Cultivation Site 8. This area has been compacted from grading and past cultivation-related activities. No site preparation is needed at Cultivation Site 9.
- The landowner shall plant Douglas-fir and/or white fir (best suited for Seed Zone 312, elevation range 4,000-5,000 feet) at a uniform spacing no less than 10-feet by 10-feet, or 435 trees per acre.
 1. Cultivation Site 8: The site was expanded to approximately 0.33 acres, so RPF recommends planting 144 trees.
 2. Proposed Restocking Area: The site is approximately 1.5 acres, so RPF recommends planting 650 trees.
- Given the conditions of the site and the higher survival rate associated with containerized stock, use containerized seedlings if available.
- For long-term storage (more than 3 days), store seedlings at 33 to 36 degrees Fahrenheit. For short-term storage (several hours to less than 3 days), store below 42 degrees Fahrenheit. At the planting site, take care not to let the roots dry out and avoid exposure to the sun or warmer temperatures.
- Follow Planting Instructions: When planting seedlings, the landowner or tree planter should abide by the following:
 1. Tree planting shall only occur in winter or the early spring. Tree planting should not occur if the ground is frozen or during unusually warm periods.
 2. Dig a hole at least one inch deeper and wider than the seedling roots. If planting from a container, dig the hole an inch deeper and wider than the container.
 3. Place the seedling into the hole taking care not to bend the taproot, or main vertical root, and cover with soil.
 4. Pack the soil down firmly around the seedling to remove any air pockets.
 5. See Appendices A-D for illustrations for correct planting techniques.
- The RPF recommends acquiring conifer seedlings from Green Diamond Resource Company's nursery in Korbel, California.
- Monitor growth and success of planted trees after one year of planting. Conduct a point count stocking sampling survey (protocol described in CFPR's 14CCR1072). If less than 55% of the planted area meets the 300-point count minimum stocking level, repeat the planting process.

Energy

The site has used generators in the past, and is proposing to utilize three (3) generators on-site. One (1) 25kW generator is proposed for drying activities within the metal building, one (1) 12kW generator is proposed for the propagation lighting in the early season, and one (1) 5kW generator is proposed to pump the well until a solar pump is installed. The applicant is planning to add solar panels to the existing two flats located in the southwest corner of the parcel. The applicant is conditioned to transition to 100% renewable energy source supplied for the project by the 2026 cultivation season, and after transition shall only be allowed to keep one (1) generator on-site for emergency backup purposes only (**Condition A.13**). The applicant shall provide an Energy Plan to the Planning Division to show how all power required by the project will be sourced by 100% renewable energy sources, and shall submit an updated Site Plan to show one (1) emergency backup generator on-site (**Condition A.14**).

Water Resources

The project will source water primarily from the permitted well (Permit #18/19-0328). The applicant is proposing to obtain supplemental water from a stream diversion on-site, under claimed water right S026085, which requires the approval of a Special Permit for the continued use and maintenance of a stream diversion within a streamside management area. Estimated annual water needed for irrigation is approximately 232,200 gallons of water (12.29 gal/SF/yr). There are eight (8) 2,500-gallon hard tanks existing on-site and two (2) 2,500-gallon tanks are proposed for a total of 25,000 gallons of water storage. The applicant shall submit a Small Irrigation and Use Registration with the Water Board Division of Water Resources, and obtain a Water Right Certificate prior to utilizing the stream diversion for irrigation (**Condition A.15**). In the event that the applicant obtains a Water Right Certificate for the stream diversion, the applicant shall submit a copy to the Planning Division and adhere to the conditions and limitations set forth within the Water Right Certificate (**Ongoing Condition B.3**). In the event that the applicant obtains a Water Right Certificate for the stream diversion, additional water storage may be required at that time in order to adhere to forbearance. The applicant shall submit an Irrigation Plan to show how they will adhere to forbearance of the stream diversion, and shall meter the water used from the well separately from the diversion (**Condition A.16**).

The applicant has obtained a Well Assessment Report (WAR) prepared by licensed geologist David Lindberg, with Lindberg Geologic Consulting, dated May 16, 2022. The WAR states that a site visit was conducted on March 30, 2022 to observe the well and local site conditions. It was determined that the well has a low likelihood of having any direct connection to surface waters, and appears to draw water from a confined subsurface aquifer not connected to any confined aquifer. The Well Completion Report estimated a yield of 25 gallons per minute for the well, and in October 2019 a two-hour air-lift pump test showed a drawdown of 10 feet. It has been calculated that if 10 percent of the lowest known annual precipitation in the area (40 inches per year) were absorbed by the soils, approximately 17.4 million gallons of water would recharge the local aquifer per year. It was determined in the WAR that the groundwater supply of the well is sufficient for the proposed use on the subject parcel.

The applicant is not currently cultivating, and the project is not currently enrolled in the State Water Resources Control Board's (SWRCB) General Order (No. WQ 2019-0001-DWQ) for Waste Discharge Requirements and Water Quality. The project is conditioned to enroll in the SWRCB's General Order prior to commencing cultivation activities on-site, and shall submit a Notice of Applicability letter or Notice of Receipt as proof of enrollment before cultivation activities can occur, and shall provide any other technical reports (other than a Site Management Plan) required in the Notice of Applicability letter received by the SWRCB (**Condition A.17**). The applicant has obtained a Site Management Plan (SMP) prepared by Green Road Consulting, dated June 16, 2020. There are three (3) Class II streams on the site, and all proposed cultivation areas will be outside of any associated streamside management areas. There are two (2) stream crossings that are used and three (3) stream crossings which are on the decommissioned road. The SMP mentions two (2) stream crossings that require upgrades, remediation measures and winterization measures required for the site to comply with the General Order standards. The applicant shall complete the remediation measures listed in the Remediation Summary Table of the SMP (**Condition A.18**), and shall adhere to the winterization and monitoring requirements in Sections 8 and 9 of the SMP (**Ongoing Condition B.4**).

The applicant has obtained a Streambed Alteration Agreement for the in-stream work and continued maintenance required for the two (2) stream crossings (STX-17 & STX-18) (SAA No. 1600-2019-0817-R1, dated April 2, 2021). The applicant shall adhere to the project description and work outlined within the SAA No. 1600-2019-0817-R1 for STX-17 & STX-18 (**Ongoing Condition B.5**). The applicant has not obtained a Lake or Streambed Alteration Agreement for the proposed stream diversion under claimed water right S026085, and the applicant shall obtain a Lake or Streambed Alteration Agreement with CDFW and shall submit to the Planning Division prior to utilizing the point of diversion for cannabis irrigation (**Condition A.19**). In the event a Streambed Alteration Agreement is obtained with CDFW for the stream diversion, the applicant shall adhere to the project description and work outlined in the final agreement (**Ongoing Condition B.6**).

Biological Resources

The project is located approximately 1 mile to the nearest known Northern Spotted Owl (NSO) activity center. According to the California Natural Diversity Database (CNDDDB) for rare and endangered species, the project site contains potential habitat areas for the northern goshawk. The project site is also shown on the CNDDDB to contain potential habitat areas for running-pine, and South Fork Mountain lupine. The applicant had a Biological Report (BR) prepared by Natural Resource Management (NRM), dated October 2020. The BR states that the site was surveyed on November 29, 2019, and that no NSO nesting habitat exists on the parcel, and no habitat for listed sensitive wildlife was identified in the vicinity of the project areas. The BR also states that the survey did not include plant species, and that seasonally appropriate plant surveys may be required for South Fork Mountain Lupine. The BR recommends the following mitigation measures: all generators in use will require noise-reducing containment with ventilation, propagation hoop-houses utilizing early-season low impact lighting will require tarps to block all potential light pollution from at least one hour prior to sunset through at least one hour past sunrise, no use of plastic support netting, and no use of rodenticides (**Ongoing Conditions B.7, B.8, B.10 & B13**).

The BR also recommended seasonally appropriate plant surveys for South Fork Mountain Lupine in the vicinity of proposed project sites on APN 009. The applicant obtained an Assessment for Botanical Resources from Botanist Janell Jackson with NRM, on August 8, 2022. In the Botanical Resource Assessment dated August 22, 2022, from Botanist Janell Jackson, it states that during the ABR a total of three (3) populations of South Fork Mountain Lupine were identified within or around the intended cultivation areas (shown in the attached Site Map of the letter), and all patches fall outside of the disturbance footprint and are not expected to have any impacts from the proposed project activities. Recommendations in the ABR are that during construction and remediation activities, and for the remainder of the time that the site is used for cultivation that the three (3) individuals of South Fork Mountain Lupine found on-site shall be caged so as to prevent any damage (**Ongoing Condition B.14**).

This project includes the decommissioning of one historic cultivation area in the northern section of the parcel, which will be centrally relocated to an environmentally superior location on-site. A letter was received by RPF Jon Dylan Leonard, dated October 30, 2020, with the following environmentally superior justifications for relocation and restoration of the historic cultivation area: the consolidation of the cultivation site will eliminate the use of approximately 5,400 feet of roads on-site, the historic cultivation site is located immediately adjacent to a neighboring parcel with ongoing illegal activity and relocation would improve security of property assets and increases safety for personnel, and the pre-existing site occupied an area on slopes greater than 17% and the proposed cultivation site will have less potential to impact soil and water resources. The applicant is required to restore and restock this area back to pre-2016 conditions in order to improve biological resources on the site. The applicant will be restoring and restocking the 0.33 acres of the expanded cultivation area. The applicant is required to comply with International Dark Sky Standards, shall ensure that all noise levels do not go above 50 decibels at 100-feet or any tree line when noise generating equipment are in use, and generators shall be enclosed in permanent generator shed locations (**Ongoing Conditions B.7 & B.8 and Condition A.8**).

Tribal Cultural Resource Coordination

The project site is located near the Tsnungwe Aboriginal Ancestral Territory. The project was referred to the Northwest Information Center (NWIC), on April 14, 2021. The NWIC replied on April 14, 2021, recommending that the local Native American tribes be contacted regarding traditional, cultural, and religious heritage values. The project was referred to the Tsnungwe Council on June 14, 2021, and comments were received, stating that a Cultural Resource Survey was not necessary for the project. The applicant shall adhere to Inadvertent Discover Protocols, and shall cease all work in the immediate area and within a 50-foot buffer of the 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 (**Informational Note 3**).

Access

Access to the project site is from State HWY 299, from Titlow Hill Road which is County maintained for 4.7 miles, and then becomes US Forest Service Road for 39 miles to the project site. From the end of the County maintained portion of Titlow Hill Road, access to the site is obtained from USFS NF51, from USFS 6N01 (Friday Ridge Road), from USFS Route 3N33 to the project site. The applicant submitted a Road Evaluation Report for the 1.68 miles of USFS 3N33 to the project site, which included pictures and a route map. The applicant has self-certified that USFS 3N33 is developed to the equivalent of a Category 4 road standard. Up to two (2) full-time employees, and three (3) part-time employees will be utilized for activities on-site, and will carpool to and from the site to lower vehicle traffic on the access road. The applicant has stated that there will be a maximum of four (4) vehicle trips per day. As the site is pre-existing, no increase in traffic is anticipated, and it has been determined that the road meets the functional capacity for the project's needs.

The project was referred to the Department of Public Works on April 14, 2021, and comments were received by the agency on April 29, 2021. Comments from Public Works included that the access route utilizes a series US Forest Service Road, and recommended that the project be referred to the US Forest Service. The project was referred to the US Forest Service on April 14, 2021, and no comments were received by the agency. As the access route utilizes Forest Service roads from the county maintained access road, no upgrades to the road are required, as the road is outside of the County's jurisdiction. The applicant shall be aware that it is federally illegal to transport cannabis across Federal lands, and the approval of this permit does not authorize transportation of cannabis across Federal lands (**Informational Note 4**).

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

Planning staff determined that 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 South Fork Trinity Planning Watershed, which under Resolution 18-43 is limited to 86 permits and 29 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 20 cultivation permits and the total approved acres would be 8.78 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).

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.