

Full Cup Farmstead, LLC
Record Number: PLN-13043-CUP
Assessor's Parcel Number: 316-064-011

Recommended Zoning Administrator 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:

Find that the Zoning Administrator 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 Special Permits and adopt the Resolution approving the Full Cup Farmstead, LLC project as recommended by staff subject to the recommended conditions.

Executive Summary: Full Cup Farmstead, LLC, seeks a Special Permit to allow the continued cultivation of 10,000 square feet (SF) outdoor cannabis 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 Timberland (T) in the Humboldt County 2017 General Plan Update and zoned Agricultural Exclusive (AE) and Timber Production Zone (TPZ); however, cultivation occurs within the portion of the site zoned as TPZ. Cultivation takes place in the central portion of the property, located east of Highway 299, in individual in-ground beds and a 1,600 SF (20'x80') hoop house structure, within an area previously cleared under a Less-Than-Three-Acre Conversion. Ancillary propagation also occurs on the east side of State Highway 299, within an existing 2,500 SF barn (50'x50'), portable office building, multiple-use dwelling, and in areas near the flowering cultivation canopy, and totals approximately 3,000 SF. One harvest is anticipated annually for a growing season that extends from June through October.

Processing currently occurs onsite in an existing permitted dwelling, and is proposed to occur within the barn and portable office building. Up to two (2) people, including the property owners/farm operators, may be utilized during peak operations; no additional employees are required. Power is provided by Pacific Gas and Electric Company (PG&E). The operation is secured behind a gated access and a video surveillance system is proposed to be installed. In addition, cultivation sites are located directly next to the main dwelling on the property, which is occupied year-round.

Setback from Six Rivers National Forest

The proposed project includes a Special Permit to reduce the 600-foot setback from Six Rivers National Forest (SRNF), located immediately adjacent to the south (APN 316-053-002), owned by the U.S. Department of Agriculture (USDA) Forest Service. Existing onsite cultivation occurs approximately 505 feet north of the adjacent public lands per Humboldt County's WebGIS, with the existing barn and portable office building located approximately 180 feet north of the adjacent SRNF-owned lands. The project was referred to SRNF in March 2019 (see Attachment 4). SRNF staff responded on March 28, 2019, which recommended denial and indicated the project is located within one-quarter mile (1,320 feet) of the East Fork Campground, a summer campground (see Attachment 4).

The adjacent public land is subject to the Six Rivers National Forest Plan (SRNFP) adopted in 1995. The project is consistent with the SRNFP because the cultivation activities will minimize impacts to biological resources and wildlife through measures to reduce potential light and noise impacts. The project will not require substantial road improvements or the removal of trees. The project will also protect fisheries and aquatic habitat on forest lands by maintaining buffers from streams, by placing controls on water withdrawals and on the storage and use of pesticides and fertilizers, and will minimize risk from wildfire by adhering to the County's Fire Safe Regulations and requiring adequate road access. The SRNFP's provisions for heritage resource protection will be met through the project consultation with Tribal Historic Preservation Officers (THPO) and avoidance of sensitive tribal cultural resources. Additionally, a Water Resources Protection Plan (WRPP; discussed further below) was developed for the project. The WRPP

was developed to prevent and/or address poor water quality conditions and adverse impacts to water resources associated with cannabis cultivation on private land. Finally, the project is consistent with recreational use on public lands by maintaining a minimum 600 buffer separation from developed campgrounds and/or trails. As a result, there will not be any new erosion, wind damage, elimination of wildlife corridors, loss of scenic beauty, or reduction of quality habitat for plants and animals. Therefore, there are no existing or proposed developments within the park that would be impacted as result of the proposed project. Because the proposed project was in existence prior to January 1, 2016, is more than 600 feet from developed recreational facilities, and includes operational changes to improve the projects from baseline conditions, Planning staff recommends approval of the setback reduction.

Nursery Space

As noted above, ancillary propagation associated with the operation occurs within the existing 2,500-square-foot barn (50'x50'), portable office building, multiple-use dwelling, and in areas near the flowering cultivation canopy, and totals 3,000 SF. This equates to approximately 30% of the total cultivation area. However, a nursery space of 10% of the cultivation area is what planning division staff and the Planning Commission have found allowable in the past, which would be equivalent to a nursery space of 1,000 SF, with the remaining cultivation area comprising 9,000 SF, for a total of 10,000 SF of onsite propagation and cultivation.

The applicant provided justification as to why the current amount of nursery space (3,000 SF) is needed for the operation (Attachment 3). Per the provided justification, the propagation area for clones requires space for up to 20 clone trays measuring 10 inches by 20 inches each (28 SF); the seed sprouting area for seedlings requires space for up to 300 plants in 5 gallon pots (12 inches wide), and pots must be spread out with approximately 12 inches between each on all sides to maintain adequate plant health and structure (900 SF); and when clones are up-potted, this requires space for up to 700 clones in 5 gallon pots (12 inches wide), where pots must be spread out with approximately 12 inches on all sides to maintain adequate plant health and structure (2,000 SF).

As the current nursery space (3,000 SF) is considerably larger than what is typically considered ancillary to an operation and allowed on cannabis cultivation sites in Humboldt County, a recommended condition of approval has been included to require the applicant to reduce the amount of nursery space onsite and revise both the Site Plan and Operations Plan to reflect a maximum of 10% of nursery space, or 1,000 SF.

Removal of Mixed-Light Infrastructure

As noted on the Site Plan, the site contains 1,600 SF of mixed-light cultivation with an existing hoop house. Per the County's Cultivation Area Verification (CAV) and interim permit that has been issued for the site, only outdoor cultivation is authorized by this permit. A condition of approval has been added to require the applicant remove all mixed-light infrastructure, including artificial lighting, dehumidifiers, and/or fans within 90 days of project approval.

Onsite Relocation and Remediation

A Remediation Plan Report was prepared by Timothy Dower, Environmental Scientist and Rangeland Resource Scientist, dated December 15, 2020 (Attachment 3), indicating that the cultivation was reconfigured in order to consolidate operations within a regulation-compliant location and minimize impacts on adjacent public and private forested areas and riparian zones. A Less Than Three Acre Conversion was filed in 1993 and is on file in the California Department of Forestry and Fire Protection's (CAL FIRE) archives, under file number 1-93EX-1582HUM. Per the Report, the property owners took ownership of the site in 2015 and the site had pre-existing cultivation in multiple areas. In 2015, the current landowners reconfigured the canopy square footage to be located within an existing 1.78-acre clearing created via the above-mentioned Less Than Three Acre Conversion. Two (2) existing cultivation areas, including 21,711 SF located north of Highway 299, adjacent to the south bank of Willow Creek (Site 2), and 10,830 SF located south of Highway 299, under the powerlines in a PG&E easement right-of-way (Site 3).

Site 2 was abandoned due to being located within the required riparian setback corridor of Willow Creek, and was also considered a less secure location for cultivation operations due to the field of view from the highway as well as the downhill orientation of the cultivation site to the highway. Post 2014, no cultivation has occurred at this location and all cultivation materials were removed following transfer of property ownership. Grass and forb species that occupied the area surrounding this site have populated and become densely ubiquitous within the previously disturbed area. No further remediation efforts are recommended in the Report, as this may cause a disruption in the re-establishment of the naturalized plant community or sediment run-off to the adjacent water bodies (Willow Creek and the unnamed creek).

Site 3 has also been abandoned, as it was located within the riparian setback of the unnamed creek and located only 100 to 150 feet from Highway 299. Cultivation-related materials, such as metal cages and irrigation lines, were removed in 2016. In 2019, the transmission line poles along the parcel right-of-way easement were replaced by PG&E. The entirety of this former cultivation area was graded for the transmission line pole installation. As the disturbance by PG&E “contributed impacts that effectively outweigh impacts from past cultivation activities”, no further remediation for this former cultivation site is deemed necessary in the Report.

Water Resources

Estimated annual water usage is 33,000 gallons (3.3 gal/SF), weather depending, with peak demand occurring in June, at approximately 10,300 gallons. Water for irrigation is provided by rainwater catchment. Existing available water storage is 34,905 gallons in a series of hard-sided tanks, with 30,000 gallons of water storage proposed in six (6) 5,000-gallon tanks, for a total of 64,905 gallons of onsite water storage. Conditions of approval require the placement of the additional water storage tanks to occur on previously disturbed area.

The operation previously obtained water from three points of diversion (PODs) from Willow Creek, a Class II stream. These PODs are no longer utilized for irrigation and solely for domestic purposes. A Streambed Alteration Agreement (SAA) No. 1600-2015-0544-R1 was issued by the California Department of Fish and Wildlife (CDFW) in April 2016 (see Attachment 3), which indicates the SAA covered the three stream diversions (where two of the PODs were located on the Class II stream, which is a tributary to Willow Creek, and the third POD was located on the Willow Creek main stem), and included installation, use, and maintenance of the water diversion infrastructure for domestic use and irrigation. The applicant completed the State Water Board's Cannabis General Order and Small Irrigation Use Registration (SIUR) Portal for the three stream diversions and rainwater catchment (Attachment 3) to obtain evidence of enrollment with the State Water Resources Control Board, required for a California Department of Food and Agriculture (CDFA) Cannabis Cultivation License. In addition, the applicant completed the State Water Board's Division of Water Rights Initial Statement of Water Diversion and Use (Attachment 3) for use of an unnamed Class II stream, a tributary to Willow Creek, for domestic and irrigation uses.

A Water Resource Protection Plan (WRPP) was prepared by Timberland Resource Consultants in February 2017 (revised in March 2017; WDID: 1B161204CHUM; Attachment 3), which includes measures to minimize potential impacts on water resources. Additionally, the WRPP prescribes corrective measures to upgrade specific road condition deficiencies identified and replace an existing 18-inch diameter culvert inlet and a 36-inch diameter outlet for a Class II watercourse as the culvert is undersized for a 100-year storm. Per the WRPP, the stream crossing culverts should be replaced with a minimum 42-inch diameter smooth walled culvert, or a 48-inch diameter corrugated culvert. The project is conditioned to implement all measures contained in the WRPP. The proposed project is to continue use of existing developed sites and the potential indirect impacts are mitigated through implementation of best management practices, the WRPP required by the North Coast Regional Water Quality Control Board, and additional measures, as detailed below. The applicant is enrolled as a Tier 2 cultivator under the North Coast Regional Water Quality Control Board (NCRWQCB). As a condition of approval, the applicant shall show compliance with the State Water Board Cannabis Cultivation Policy, in congruence with Order WQ 2017-0023-DWQ General Waste Discharge Requirements for Dischargers of Waste Associated with Cannabis

Cultivation Activities (General Order), and shall furnish a Notice of Applicability, and prepare and submit a Site Management Plan (SMP) developed for the property.

Biological Resources

Per review of the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB) in July 2021, the site has the potential for sensitive species to be present onsite, as the subject property is located within potential habitat area for special status animal and plant species. Additionally, the multiple-use dwelling (which currently includes onsite processing) is located approximately 190 feet north of Northern Spotted Owl (NSO) Final Critical Habitat, which may be located within the boundaries of the subject parcel. The nearest NSO observation is located approximately 0.16 miles from the nearest cultivation area, with the nearest NSO activity center located approximately 0.62 miles from the cultivation area. Per the applicant, power is provided by PG&E. Humboldt County WebGIS and the site plan show Willow Creek traverses the site, west of Highway 299. Additionally, per the site plan, there is one (1) additional unnamed creek within the central portion of the site, on both sides of Highway 299. Although no Streamside Management Area (SMA) buffers are currently shown on the site plan, the cultivation area and associated infrastructure are located more than 100 feet from the watercourses, and are therefore outside of the required SMA buffers, preserving them as wildlife corridors.

Additional conditions of approval include, but are not limited to, having all outside lighting on timers or motion sensors to reduce light exposure to wildlife and their potential habitat, and avoid heavy equipment operations during NSO critical period (February 1 – July 31) or perform protocol level surveys prior to initiating that work. Additionally, the project is conditioned to adhere to Dark Sky Standards for onsite lighting, refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage and refrain from using anticoagulant rodenticides to further protect wildlife. Further, as discussed above, the proposed water storage tanks to be added shall occur within a previously disturbed area. 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.

Access

Access to the site is via a private driveway off a private road from Highway 299. Highway 299 is a State-maintained highway. A Road Evaluation Report with associated photos (Attachment 3) was prepared by one of the landowners in December 2020, which indicates the entire road segment is developed to the equivalent of a road category 4 standard. Per comments received from the California Department of Transportation (Caltrans) in April 2021, the driveway was noted to meet Caltrans' commercial driveway standards. In addition, it is noted that only right turn-in and right turn-out movements to and from the project site are legal. Per Caltrans' comments, sight distance to the west will need to be improved and could be accomplished with vegetation trimming and minor earthwork. Any work to improve sight distance within the State right-of-way will require an encroachment permit from Caltrans. The project is conditioned to perform sight distance improvements per Caltrans' comments and obtain an encroachment permit from Caltrans, if deemed necessary. CAL TRANS staff was contacted on September 15, 2021 (see Attachment 4). Planning staff provided response to their comments. No response was received as of the date of writing this staff report. Any comments received prior to the hearing will be presented as a supplemental.

As previously discussed, per the WRPP, prescribed corrective measures are required to upgrade specific road condition deficiencies identified in the Report, which includes replacing an existing 18-inch diameter culvert inlet and a 36-inch diameter outlet for a Class II watercourse, which are undersized for a 100-year storm. As stated in the WRPP, the stream crossing culverts should be replaced with a minimum 42-inch diameter smooth walled culvert, or a 48-inch diameter corrugated culvert. The project is conditioned to implement all measures contained in the WRPP.

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 Zoning Administrator (See Attachment 2 for more information). Staff recommends that the Zoning Administrator describe the application as a part of the consent agenda, survey the audience to see if any person would like to discuss the application and, if no one requests discussion, make all the required findings based on the evidence in the record and approve the application subject to the recommended conditions.

ALTERNATIVES: Several alternatives may be considered: 1) The Zoning Administrator could elect not to hear this item and put the decision making in front of the Planning Commission. Any decision to place this matter before the Planning Commission must be done before opening the public hearing on this project; 2) The Zoning Administrator could elect to add or delete conditions of approval; 3) The Zoning Administrator could deny approval of the requested permits if you are unable to make all of the required findings. Planning Division staff is confident that the required findings can be made based on the submitted evidence and subject to the recommended conditions of approval. Consequently, planning staff does not recommend further consideration of these alternatives.