



# COUNTY OF HUMBOLDT

For the meeting of: 10/19/2021

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File #: 21-1496

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**To:** The Humboldt County Board of Supervisors

**From:** Planning and Building Department

**Agenda Section:** Public Hearing

**SUBJECT:**

Lassik Farms LLC appeal of the Planning Commission's conditional approval of a Conditional Use Permit to allow a 24,687 square foot existing commercial cannabis operation.

**RECOMMENDATION:**

That the Board of Supervisors:

1. Open the public hearing and receive the staff report, testimony by the appellant (applicant), and public; and
2. Close the public hearing; and
3. Adopt the resolution (Resolution 21-\_\_). (Attachment 1) which does the following:
  - a. Finds that the Board of Supervisors has considered the Addendum to the Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance that was prepared for the Lassik Farms LLC project); and
  - b. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and
  - c. Approves the Appeal submitted by Lassik Farms LLC; and
  - d. Approves the Conditional Use Permit subject to the recommended conditions of approval.
4. Direct the Clerk of the Board to give notice of the decision to the appellant, the Planning and Building Department, and any other interested party.

**SOURCE OF FUNDING:**

The appellant has paid the fee associated with filing this appeal.

**DISCUSSION:**

**Executive Summary**

This is an appeal of the Humboldt County Planning Commission's Aug. 19, 2021, approval of the Lassik Farms LLC by a unanimous vote (Yes: Bongio, Mulder, Levy, Newman, O'Neill, Mitchell, McCavour). Lassik Farms is appealing the decision to add a condition of approval to the project for the requirement of 50% of the annual water demand to be developed from rainwater catchment. The

Planning and Building Department supports the appeal.

The application is a Conditional Use Permit for an existing 24,687-square-foot outdoor cannabis cultivation operation of which 20,073 square feet (SF) is full-sun outdoor and 4,614 SF is outdoor in three light deprivation greenhouses which do not utilize any artificial lighting. Ancillary propagation occurs in a 300 SF greenhouse. Irrigation water is sourced from a permitted groundwater well. Existing available water storage is 12,800 gallons stored in a series of hard-sided tanks. Estimated annual water usage is 360,000 gallons. Drying, bucking, and processing occurs onsite, and additional processing may occur offsite at a licensed processing or manufacturing facility, if necessary. Up to two employees may be utilized during peak operations. Power for cultivation is sourced primarily from solar and wind power, with generators to provide ancillary power and support drying activities. The project is located on the south side of Sunset Ridge Road, approximately 1.36 miles west from the intersection of Alderpoint Road on the property known as 2021 Sunset Ridge Road, Blocksburg.

The appellant filed a timely appeal of the Planning Commission decision on Sept. 2, 2021. The appellant believes that the requirement for rainwater catchment is excessive and not justified under the county ordinance. The appeal is addressed in more detail below.

### Project History

The appellant applied for a CUP under the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) on Dec. 27, 2016 for cultivation that was in existence prior to Jan. 1, 2016 and has been operating with an interim permit since April 27, 2018. The cultivation site complies with all of the requirements of the CMMLUO, the Humboldt County Code, and the Humboldt County General Plan. The county prepared an addendum to the Mitigated Negative Declaration that was adopted for the CMMLUO for the project which documents how this application is consistent with the California Environmental Quality Act.

The project was heard by the Planning Commission on Aug. 19, 2021 where it was approved unanimously. In addition to the conditions of approval recommended by county staff, the Planning Commission imposed the following condition:

The applicant shall provide 50% of annual water demand (equal to 180,000 gallons) with rain catchment utilizing run-off from existing structures on-site. The applicant shall install additional water tanks in previously disturbed areas as necessary to comply with this condition. The applicant shall provide evidence (e.g. photographs) of the rain catchment system and additional water storage tanks. Alternatively, the applicant can schedule a site inspection with the Humboldt County Planning Department to verify this condition is met. A sign-off from the Planning Department will satisfy this condition.

### Appeal

The appellant objects to the imposition of this condition of approval for the development of rainwater catchment. Lassik Farms LLC states that during the meeting, two concerned citizens called in to

complain about the drought and the plight of the earth, environment and rivers. That the first caller's statement was that all the cannabis farms are taking all of the water and that the second caller talked about the hydrology and geologic water features of the project site without any reference to any local expertise or knowledge of the hydrologic cycle/system of the project site. Lassik Farms states that the second caller made incorrect assertions with no relevance to anything specific to the project site. Lassik states that after the public comment the commission asked whether Lassik Farms would agree to adding water storage of half of the yearly water usage and that they were caught off guard and initially agreed due to fear of losing their permit however the requirement is excessive and not justified.

This report lists the primary arguments made by the appellant in support of their appeal, followed by a staff response.

Appeal Argument 1:

The appellant states that they are not required under the CMMLUO to maintain any forbearance of water or develop rainwater catchment because there is no surface water diversion occurring for the cultivation.

Staff Response:

This is correct. The requirement of the CMMLUO for forbearance is found in Section 314-55.4.11 of the Humboldt County Code which is prefaced with the following text:

***Where surface water diversion provides any part of the water supply for irrigation of cannabis cultivation.***

The water source for Lassik Farms is a perched aquifer groundwater well which is located along a ridgeline, away from surface water features and is not considered a surface water diversion. Accordingly, under the CMMLUO there is no requirement for forbearance.

Appeal Argument 2:

***The decision to place a water forbearance condition on the Lassik Farms project or any other farm that is not diverting water or irrigating with surface water is beyond the scope and duty of the Planning Commissioners. As well it is an unlawful condition not supported or required in the CMMLUO.***

Staff Response:

It is not beyond the scope of duty of the Planning Commission to require water storage for projects that are utilizing groundwater wells. In order to approve a Conditional Use Permit the decision-maker must find that the project will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity. Presumably overdraft of groundwater resources could be detrimental to the public welfare and/or injurious to properties or improvements in the

vicinity. However, there is no evidence that indicates that the use of the groundwater well for the proposed Lassik Farms LLC project will result in overdraft of groundwater resources and the imposition of a condition for additional water storage is not justified.

In this case, the pump test associated with the well log indicates that it has an estimated yield of 40 gallons per minute which is more than sufficient for supplying all of the irrigation needs for the project. At 40 gallons per minute, the well would produce the entire annual irrigation needs of 320,000 gallons in less than 6 days if it were to be pumped continuously. The maximum irrigation needs are in August at up to 2,469 gallons per day, which is 1.7 gallons per minute if drawn from the well continuously over a 24-hour period. Thus, the drawdown pressure on the well is minimal compared to its maximum capacity.

Further, the location of the well is such that any substantial impact of drawdown even at its maximum rate of 40 gallons per minute would be unlikely to affect adjacent improvements and resources. The well is 200 feet in depth and is at an elevation of approximately 2,120 feet above sea level. The total drawdown during the 4-hour pump test was 174 feet, however the top of the ridge in this area is at 2,200 feet above sea level, and the land slopes in all directions such that the bottom of the well elevation of 1,920 feet above sea level is the ground surface level as close as 600 feet to the direct north and the west from the well location, and approximately 2,000 feet to the east from the well location and 3,000 feet to the south from the well location. The ridge heads in a northwesterly direction along Sunset Ridge Road such that the 1,920-foot elevation does not daylight for approximately 2 miles, however this is following the top of the ridgeline (see Attachment 6 showing the well location and the 1,920 foot elevation contour). Accordingly, the cone of depression from pumping this well at its maximum yield would be unlikely to substantially impact any adjacent property's water sources. Further, at this distance, the cone of depression during maximum pumping of the well would daylight to ground level in most directions before reaching any adjacent mapped surface water features. The nearest mapped surface water feature is approximately 850 feet to the north, at an elevation of 2,000 feet.

There is no reason for maximum pumping of the well to occur given the high production amount and relative low water needs for the project. The use of this well for 320,000 gallons a year will result in a very low pumping rate that is unlikely to overdraft the resource. Accordingly, there is no substantial public welfare or detriment to properties or improvements in the vicinity that would justify the requirement to forbear 50% of the water needs for the project.

**FINANCIAL IMPACT:**

There will be no additional impact on the General Fund.

STRATEGIC FRAMEWORK:

This action supports your Board's Strategic Framework by its support of the Goals and Policies of stabilizing and supporting a successful cannabis industry.

OTHER AGENCY INVOLVEMENT:

None

ALTERNATIVES TO STAFF RECOMMENDATIONS:

The Board could choose to deny the appeal and approve the Conditional Use Permit subject to all of the conditions imposed on them by the Planning Commission.

ATTACHMENTS:

NOTE: The attachments supporting this report have been provided to the Board of Supervisors; copies are available for review in the Clerk of the Board's Office.

1. Draft Board Resolution and Findings
2. Appeal filed by Lassik Farms LLC
3. Planning Commission Staff Report
4. Resolution of the Planning Commission, Resolution No. 21-132 and Revised COA
5. Well Completion Log
6. Exhibit showing well location and elevation contour of bottom of well.

PREVIOUS ACTION/REFERRAL:

Board Order No.: N/A

Meeting of: N/A

File No.: N/A