

**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 Permit and adopt the Resolution approving the Winnetka Ranch, LLC, project as recommended by staff subject to the recommended conditions.*

**Executive Summary:** Winnetka Ranch, LLC, seeks a Special Permit to allow the continued cultivation of 9,000 square feet (SF) of existing outdoor cultivation and 900 SF of ancillary propagation, 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 Residential Agriculture (RA20-160) in the Humboldt County 2017 General Plan Update and zoned Forestry Recreation with 20-Acre Minimum Special Building Site Combining Zone (FR-B-5(20)). Cultivation takes place within the central portion of the property, including 8,431 SF grown within three (3) greenhouses utilizing light deprivation techniques and 1,000 SF of full-sun outdoor cultivation (9,431 SF). Conditions of approval are recommended to amend the cultivation and operations plan and site plan for the amount of onsite cultivation to not exceed 9,000 SF pursuant to the County's cultivation area verification and amount verified to be in existence prior to the CMMLUO environmental baseline date of January 1, 2016, discussed further below (**Conditions of Approval #5-7**). Ancillary propagation (900 SF total) occurs within a separate greenhouse located east of the cultivation. Two (2) harvests are anticipated annually for the light deprivation greenhouses and one (1) harvest for the full-sun outdoor cultivation for a growing season that extends from April through October.

Drying occurs onsite in an existing 2,250 SF shop building, with all other processing occurring offsite at a licensed processing or manufacturing facility. A maximum of four (4) people may be onsite during peak operations. The operation is secured behind locked gates, locked buildings and structures, and utilizes motion-activated security cameras.

Power is currently provided by a 45-kilowatt (kW) generator; however, there are long-term plans to switch to grid power and connect to Pacific Gas and Electric Company (PG&E). Conditions of approval require the applicant to submit an energy use plan that describes the power demand for the project that includes a description of what power is required for (e.g., propagation, cultivation, and processing) and how much power is required on a monthly and annual basis. The energy plan shall also include a description of the generator(s) used to meet the power demand and state how the size of the generator is reasonable based on the power demand. The generator(s) used to support operations shall not be larger than required to meet operational needs. The plan shall also describe how the operation will transition to use of 80% renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026 (**Condition of Approval #6**).

**Cultivation and Nursery Space**

As noted above, for the verified cultivation area is 9,000 SF of existing outdoor cannabis cultivation and 900 SF of existing ancillary propagation. The onsite nursery equates to approximately 10% of the total current cultivation area, which complies with what Planning division staff and the Planning Commission have found allowable in the past. Based on the County's cultivation area verification, 9,000 SF of cultivation was in existence prior to the CMMLUO environmental baseline date of January 1, 2016. Because the parcel is over 5 acres in size, irrigation water is sourced from a non-diversionary source, the

propagation area appears to occur on slopes less than 15% (based on review of the Humboldt County WebGIS), and the subject property is zoned FR, new cultivation could be considered on the subject parcel. Therefore, Planning staff supports the ancillary propagation area.

As the current Site Plan and Operations Plan for the project depict and describe cultivation in excess of 9,000 SF, recommended conditions of approval have been included to require the applicant to revise both the Site Plan and Operations Plan to reflect a maximum of 9,000 SF of cultivation with a maximum of 10% nursery space, or 900 SF (currently in existence), consistent with the cultivation amount previously verified by the County (**Conditions of Approval #7-8**).

**Timber Conversion**

Review of aerial imagery dating back to 2004 indicates the site contained an existing open area in the central portion of the property as of 2004. However, it appears a small amount of timber conversion (removal of approximately 3 trees) may have occurred near the cultivation area between 2018 and 2020, after the CMMLUO environmental baseline date of January 1, 2016, in order to accommodate a greenhouse. No additional tree removal is proposed or authorized by this permit. The project is conditioned to require the property be evaluated by a Registered Professional Forester (RPF) to determine the amount of timber conversion that occurred prior to and after the CMMLUO baseline date of January 1, 2016, and submit a Timber Conversion Report prepared by a RPF, to address previously unpermitted timber conversion. The applicant/owner will be responsible for mitigating the environmental impacts not analyzed in the environmental document prepared for the CMMLUO. The applicant/owner shall be required to re-stock an area onsite equivalent to the amount of area converted after the CMMLUO baseline date at a rate of 3:1. Additionally, the project is conditioned to require preparation of a Restocking Plan within 90 days of project approval and implement the Restocking Plan within a period of two (2) years, should any timber conversion be determined to have occurred after the CMMLUO baseline date. The Restocking Plan shall include details on the locations and total areas to be restocked, the type, number, and spacing of the plantings, and a monitoring plan for three (3) years which includes performance evaluations, performance standards, and contingency measures should performance standards not be met. The Report shall include monitoring and reporting requiring a minimum of 3 years of monitoring at an 85% success rate and submission of annual monitoring reports at the time of the annual inspection (**Condition of Approval #12**).

**Water Resources**

Estimated annual water usage is 70,000 gallons (7.4 gal/SF) with peak demand occurring from June through August at approximately 12,000 gallons, respectively, per the table below. Based on information provided by the applicant in March 2022 (Attachment 3), their water use estimates are based on watering every second day with 1 gallon per plant and utilizing cannabis strains that flower in 56 days.

*Table 1. Monthly Water Usage Estimates (in gallons)*

Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec
0	0	0	3,000	9,000	12,000	12,000	12,000	11,000	11,000	0	0

*Total: 70,000 gallons*

Water for irrigation is currently provided by a permitting groundwater well (18/19-1140); however, the applicant is proposing to add additional water storage tanks and switch to rainwater catchment by the end of 2022. A point of diversion, for which a Right to Divert and Use Water (Registration ID D032451; Certificate No. D1009) was issued by the State Water Resources Control Board in June 2018, is also located onsite; however, the point of diversion was authorized to be solely for domestic and fire protection use, and is not utilized for the cannabis cultivation. As noted by the applicant in March 2022 (Attachment 3), "per County and CDFW request [the point of diversion] was removed and the violation addressed."

In regard to the proposed switch to rainwater catchment, the average rainfall for the project area is 68.5 inches, based on averaging rainfall values from 2010 through 2020 as recorded by PRISM Climate Group. Impermeable surfaces such as roofs, driveways, etc. in general allow for about 620 gallons of rainwater catchment per 1,000 SF for every inch of rainfall or 0.62 gallons per 1 SF. Based on information

provided by the applicant in April 2022 (Attachment 3), the applicant plans to utilizing the roof of the single-family residence onsite (approximately 34'x70', or 2,100 SF) and the small cabin rooftop (approximately 20'x20', or 400 SF), for a potential capture area of 2,500 SF. Based on the impermeable rainwater catchment area of 2,500 SF, and an average rainfall amount of 68.5 inches, the site's potential capture amount totals 106,175 gallons per year, on average. A detailed breakdown of proposed rainwater capture infrastructure and capture potentials are provided below in Table 2. Rainwater that is captured through the rainwater catchment system will be stored in the existing and proposed water storage tanks totaling 70,000 gallons.

*Table 1. Proposed Rainwater Capture Analysis*

<b>Infrastructure Description</b>	<b>Potential Capture Area (ft<sup>2</sup>)</b>	<b>Potential Average (2010-2020) Rainfall Capture Amount (gallons)</b>
Residence (Domestic)	2,100	89,187
Cabin (Domestic)	400	16,988
<b>Totals:</b>	2,500	106,175

When compared to the estimated annual water usage amount (70,000 gallons), Planning staff believes there will be sufficient water available from the rainwater catchment system, once installed, to serve the project, which is expected to result in approximately 106,175 gallons per year, on average.

Existing available water storage is 25,000 gallons in a series of hard-sided tanks, with two (2) 2,500-gallon tanks dedicated for domestic use. Additional water storage tanks (totaling 45,000 gallons) are proposed to bring the total amount of onsite water storage for irrigation to 70,000 gallons, equal to the estimated total annual water usage associated with the project (70,000 gallons). This is an existing cultivation site and the planning permit approval may be required to install the additional water storage. Conditions of approval require the applicant to obtain building permits (as applicable), install the additional water tanks, and demonstrate they are full prior to the beginning of the 2023 cultivation season. The use of the groundwater well shall cease prior the 2023 cultivation season. Additionally, the tanks shall be located in a previously disturbed area outside of all required Streamside Management Area (SMA) buffers (**Condition of Approval #10**). Conditions of approval also require the applicant to monitor water use from the well (until the rainwater catchment system is operational by the end of 2022) and water storage tanks annually to demonstrate there is sufficient water available to meet operational needs (**Condition of Approval #22**).

According to Humboldt County Web GIS and depicted on the Site Plan with respective Streamside Management Area (SMA) buffer, Muddy Creek traverses the northern and western portions of the subject parcel. Based on the Site Plan, all cultivation activities and respective infrastructure are located outside of the respective SMA buffer; however, an existing cabin (noted as constructed in 1980), two (2) 2,500-gallon residential water storage tanks, and an additional parking area are shown to be located within the SMA buffer. Because the residential use and appurtenant residential development are not necessary for cultivation operations and construction of the cabin pre-dates the Streamside Management Area and Wetland Ordinance (SMAWO), no additional permits are required.

A Water Resource Protection Plan (WRPP) was prepared for the subject site by the former applicant in April 2017 (Attachment 3) in compliance with the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R1-2015-0023. The WRPP assesses compliance with the required elements and standard conditions established in the Order to protect water quality from cannabis cultivation and related activities. Recommendations in the WRPP include an increase in water storage. Conditions of approval require continued compliance with the measures and best management practices (BMPs) identified in the WRPP related to site maintenance, erosion control, stream crossing maintenance, riparian area and wetland protection, spoils management, runoff, use and storage of fertilizers, soil amendments, pesticides/herbicides, and petroleum products, and refuse and waste (**Condition of Approval #15**). Additional conditions of approval require the applicant to comply with the State Water

Resources Control Board Cannabis Cultivation Policy, which includes development and implementation of a Site Management Plan (**Condition of Approval #16**).

A Notification of Lake or Streambed Alteration was prepared in October 2019 and submitted to the California Department of Fish and Wildlife (CDFW) for a point of diversion (not utilized for the operation) and a stream crossing upgrade. The project is conditioned to require the applicant finalize the Notification, adhere to the Final Streambed Alteration Agreement (once issued by CDFW), and comply with all applicable terms (**Condition of Approval #14**).

### **Biological Resources**

Per review of CDFW's California Natural Diversity Database (CNDDDB) in February 2022, the site is mapped within potential habitat area for the foothill yellow-legged frog (*Rana boylei*, a State-listed endangered species), as well as American peregrine falcon (*Falco peregrinus anatum*) and three-ranked hump moss (*Meesia triquetra*). The nearest NSO positive sighting is located approximately 0.42 miles from the cultivation area, with the nearest NSO activity center located approximately 1.51 miles away. As previously described, power at the site is provided by a 45-kilowatt (kW) generator; however, there are long-term plans to switch to grid power and connect to Pacific Gas and Electric Company (PG&E). More specifically, as stated by the applicant in March 2022 (Attachment 3), "...We have plans to upgrade to grid power once the license is issued and we generate some income." Conditions of approval require the applicant to submit an energy use plan that describes the power demand for the project that includes a description of what power is required for (e.g., propagation, cultivation, and processing) and how much power is required on a monthly and annual basis. The energy plan shall also include a description of the generator(s) used to meet the power demand and state how the size of the generator is reasonable based on the power demand. The generator(s) used to support operations shall not be larger than required to meet operational needs. The plan shall also describe how the operation will transition to use of 80% renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026 (**Condition of Approval #6**). Connection to grid (PG&E) power will reduce impacts to NSO by discontinuing the use of the generator.

*A Biological Reconnaissance Report: Special Status Species and Sensitive Habitats* (Biological Report) was prepared by S.E. McAllister and Associates in June 2019 (see Attachment 3) to determine if sensitive species or habitats occur onsite and whether the project may have a negative impact on such resources. As noted in the Report, the habitat at the site "is generally characterized by mid-seral mixed conifer and hardwood forest amidst substantial open grassland, with a stretch of sparse riparian habitat along the banks of Muddy Creek." Sensitive habitats at the site include a stream and associated riparian habitat. In total, 26 special status wildlife and 30 special status plant species are known to occur within the study area, and, of these species, 25 wildlife and 15 plant species are either known to occur or are considered to have reasonable potential for occurrence within the project area. One special-status species (Foothill yellow-legged frog) was observed during the survey. However, since the project does not involve additional development, ground disturbance, or significant noise disturbance or artificial lighting, the Report concludes the project "would have no significant impact on special-status wildlife or plants." In the event the project is modified or expanded in the future, seasonally appropriate botanical and NSO surveys are recommended, in addition to surveys for sensitive aquatic species if any change would affect aquatic environs.

Conditions of approval require the applicant to implement light and noise attenuation measures, refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife (**Conditions of Approval #18-21 and Ongoing Conditions of Approval #1, 2, 4, 5, and 7**). Further, in response to the recommendations of the Biological Report, an ongoing condition of approval is included to require seasonally appropriate, pre-construction surveys in the event the project is modified or expanded in the future (**Ongoing Condition of Approval #25**). 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 driveway off State Highway 36. State Highway 36 is a State-maintained highway, managed by the California Department of Transportation (Caltrans). A Road Evaluation Report for an approximately 0.8-mile segment of the unnamed private driveway, from State Highway 36 to the subject property, was prepared by the former applicant in May 2019 (Attachment 3), which indicates that the roadway meets a Category 4 road equivalent standard and is adequate for the proposed use. The submitted road evaluation included sufficient photographic evidence to verify the roadway condition as described, including roadway width and line of sight. Per comments received from Caltrans in December 2020, the existing driveway approach, located at Post Mile (PM) 30.217, is required to meet current Caltrans standards for a commercial driveway, which has been included as a condition of approval (**Condition of Approval #13**). Additional informational comments provided in the referral comments, including but not limited to information pertaining to permits to construct, upgrade, own, and operation road approaches to the State highway system, have been included in the "Informational Notes" section of the Resolution, below (**Informational Notes #5-7**).

## **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 Van Duzen Planning Watershed, which under Resolution 18-43 is limited to 425 permits and 146 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 115 permits and the total approved acres would be 40.11 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 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.