



COUNTY OF HUMBOLDT

Legislation Text

File #: 23-602, Version: 1

To: Planning Commission
From: Planning and Building Department
Agenda Section: Consent

SUBJECT:

NorCal 420 Patient Collective, Inc. Conditional Use Permit
Assessor Parcel Numbers (APN) 210-101-011-000
Record No.: PLN-12778-CUP
Dinsmore area

A Conditional Use Permit for 32,100 square feet existing commercial cannabis cultivation consisting of 22,186 square feet light deprivation, 4,214 outdoor, and 5,700 mixed light. Additionally, 3,210 square feet will be allocated for ancillary nursery space and mother stock propagation. The primary irrigation water sources are an onsite rainwater catchment pond. The current water storage capacity onsite is 75,675. Proposed water storage is 195,000 gallons. The anticipated irrigation water need is 185,000 gallons (5.24 gallons per square foot). Processing would be performed onsite. Up to nine (8) employees are expected for operations. The power source is a generator; however, this project is conditioned to transition to renewable energy.

RECOMMENDATION(S):

That the Planning Commission:

1. Adopt the resolution (Resolution 23-__). (Attachment 1) which does the following:
 - a. Finds that the Planning Commission has considered the Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance and the Addendum that was prepared for the NorCal 420 Patient Collective, Inc.
 - b. project); and
 - c. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and
 - d. Approves the Conditional Use Permit subject to the recommended conditions of approval (Attachment 1A)

DISCUSSION:

Project Location: The project is located in Humboldt County, in the Dinsmore area, on the west side of HWY 36, approximately 100 feet from the intersection of HWY 36 and UNN999, on the property known to be in Township 01N of Range 05E Section 19 Humboldt Base & Meridian aka 37999 ST HWY 36 Bridgeville, CA 95526

Access: The site is accessed off the west side of Highway 36 from a privately maintained road.

Present General Plan Land Use Designation: Residential Agriculture (RA40); 2017 General Plan; Density: 40 acres per unit; Slope Stability: Low Instability (2).

Present Zoning: Unclassified (U).

Environmental Review: An Addendum to a previously adopted Mitigated Negative Declaration has been prepared for consideration per §15164 of the State CEQA Guidelines.

State Appeal: Project is NOT appealable to the California Coastal Commission.

Major concerns: None

Executive Summary: The applicant seeks a Conditional Use Permit for 32,100 square feet existing commercial cannabis cultivation consisting of 22,186 square feet light deprivation, 4,214 outdoor, and 5,700 mixed light. Initially, 5,130 square feet of ancillary nursery area was requested, however, to meet the 10% limitation, the applicant will allocate 3,210 square feet will be allocated for ancillary nursery space. The current water storage capacity onsite is 74,500. Current water tanks include two (2) 1,000-gallon tanks and one (1) 2,500-gallon tank and the 70,000-gallon pond. An additional 100,000 gallons of water tank storage is proposed. Collectively, with the current, proposed, and seasonal recharge from rainfall, the total available storage would be approximately 195,000 gallons. The primary irrigation water source is an onsite pond that is approximately 10,000 square feet in surface area, which the applicant states yields a recharge rate of 9.5” of rainfall during the period of April - September: equal to approximately 42,500 gallons. According to the Western Regional Climate Center this is the average rainfall for the period of April to September in the Bridgeville area from 1954 to 2001. Accounting for more recent drought years less pond recharge during this period would occur and evaporation loss from the pond could exceed 20% for the same time frame. Accordingly, staff is recommending that the applicant develop an additional 40,000 gallons of water storage, bringing the total water storage on-site to 210,000 gallons.

The anticipated irrigation water need originally was anticipated to be 300,050 gallons (8.06 gallons per square foot). However, to meet the 10% limitation in ancillary nursery area, the applicant reduced the ancillary nursery size to 3,210 square feet. According to the applicant this reduction substantially decreased the water need. The new anticipated annual irrigation water requirement is 185,000 gallons (5.24 gallons/square foot). While this amount is lower than typical (a typical average is approximately 8-12 gallons a square foot) the recommended conditions of approval include the requirement for a water meter and annual reporting. Should the irrigation amount prove to be more than anticipated the applicant will be required to either reduce the cultivation area or increase water storage.

Processing would be performed onsite. Up to eight (8) employees are expected for operations. The power source is a generator, however this project is proposed to be conditioned upon transition to renewable energy.

The project parcel is 52 acres in size and is adjacent to the east of the Van Duzen River in the cannabis impacted HUC-12 Van Duzen Watershed. The parcel is located within the State Responsibility Area (SRA) and in the jurisdiction of the Bridgeville Fire Protection District. Terrestrial habitat on the property is primarily early to mid-seral forest of the Douglas-Fir series (DFR), common tree species including Douglas Fir (*Pseudotsuga menziesii*), Madrone (*Arbutus menziesii*), Ponderosa Pine (*Pinus ponderosa*), Oregon White Oak (*Quercus garryana*) and Tanoak (*Notholithocarpus densiflorus*). Annual mean rainfall is approximately 40 inches, although some areas may receive twice the amount. The elevation ranges from 2,300 to 2,600 feet above seal level. Slopes range from 0% to 25%. The parcel is host to aquatic habitats including perennial and intermittent streams (Class I and II), which drain into the Van Duzen River.

Biological Resources

A Biological Assessment was conducted on June 23, 2021, by O'Brien Biological Consulting. The assessment identified nine (9) species of birds, none of which are considered sensitive species. The parcel was assessed for raptor habitat and nests, both of which yielded no observations. The project is located approximately 0.54 miles from the nearest known Northern Spotted Owl (NSO) activity center. The nearest critical habitat for NSO is approximately 2.14 miles from the nearest cultivation site. The property is approximately 656 feet from State Highway 36 with an auditory disturbance of 656 feet and a visual disturbance of approximately 328 feet. The assessment suggested a strong likelihood that no significant impacts from the commercial cannabis cultivation would result to NSO nesting habitat. Potential and abundant foraging habitat on adjacent was also postulated to be unlikely to negatively impact roosting or foraging NSO. Any proposed construction or maintenance of roads shall occur outside of the critical nesting period for NSO between February 1st and July 9th. If any operations with the potential to disturb NSO are proposed during the critical nesting period, NSO surveys shall be conducted per specifications outlined in the Protocol for Surveying Proposed Management Activities That May Impact Northern Spotted Owls (**Condition B.3**). The project site was not found to host potential habitat areas for any rare or endangered species. The roads and parcel were inspected for invasive species, and none were observed. The recommendations of the biological assessment included that cultivation should be conducted to minimize potential runoff from the project cultivation areas. Further, all fertilizers, pesticides, and petroleum products should be used in strict accordance with the manufactures directions and stored in secure facilities with secondary containment. Should any tree removal or significant habitat alteration be proposed, a protocol nesting bird survey would be required. At any time, if invasive plant species are discovered or become established on the property, measure should be undertaken to remove them, including removing established plant colonies, and grubbing out any young plants annually. If, at any time, any expansion of the square footage of the project is sought to be expanded, a vernal floristic survey for rare plants shall be initiated and completed prior to commencement of the expansion (**Condition A.8**). 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 158 cultivation permits and the total approved acres would be 42.3 acres of cultivation. The project was referred to CDFW on January 9, 2023, and no comments were received. The applicant is required to comply with International Dark Sky Standards for lighting within the propagation greenhouse, and 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 (**Ongoing Conditions B.3 & B.4**). There is an active code enforcement case, issued March 16, 2020, for the removal of hazardous waste and junk cars. Before the initiation of any commercial cannabis cultivation, these specific violations must be rectified with Humboldt County Code Enforcement (**Condition A.5**).

Existing and Proposed Structures

Structures on the parcel include a 12'x24' building (circa 2017) used for cannabis storage, a 20'x28' structure without a nexus to cannabis, a 12'x20' cabin, an 8'x12' shed for chemical storage, a 4'x6' shed for chemical storage, a 10'x10' fuel storage and generator shed, and a 2,500-gallon recreational pool. The structures proposed include a 40'x50' processing facility, four (4) 8'X20' shipping containers for tools and equipment storage, a 8'x12' shed for chemical storage, a 16'x88' drying barn, and a 30'x50' building for worker housing.

There are 12 greenhouses. Two (2) light deprivation and two (2) mixed light cultivation cycles are anticipated per annum. The outdoor cultivation area totals 4,214 square feet with one (1) cultivation cycle yearly. The applicant is conditioned to obtain building permits for all existing and proposed structures with a nexus to cannabis (**Condition A.9**). The applicant is conditioned to permit the historic grading that occurred in association to cannabis activities on-site, with the Building Division (**Condition A.10**).

Water Resources

The project parcel has two (2) points of diversion (POD1 & POD2) and one (1) groundwater well. POD1 is a concrete cistern placed in a spring, which is utilized for domestic purposes only. POD2 is a man-made off-stream pond that is utilized for commercial cannabis irrigation. There is a separate permitted 140-foot groundwater well, which is used for domestic purposes only. The applicant has obtained a final Streambed Alteration Agreement with the California Department of Fish & Wildlife for the in-stream work needed to upgrade two (2) culverts and replace an existing dirt ford on-site (SAA No. 1600-2016-0343-R1). The applicant shall adhere to the project description and work outlined within the SAA. Water source is an onsite pond and rainwater catchment. The current water storage capacity onsite is 74,500 gallons via one (1) 70,000 gallon pond and two (2) hard tanks. A recommended condition of approval would require the addition of 140,000 gallons of water storage on the property (**Condition A.17**).

The site is 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 applicant has submitted a Notice of Applicability letter dated September 6, 2019, showing enrollment in the General Order as a Tier 1 Low Risk site (WDID 1_1CC436121). The Site Management Plan (SMP) dated September 17, 2021 covers 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, and to adhere to the corrective actions and ongoing monitoring and winterization methods recommended in the final SMP (**Condition A.12 & Ongoing Condition B.2**).

Current water storage capacity onsite is 74,500; approximately 70,000-gallon pond and two (2) 1,000-gallon tanks, one (1) 2,500-gallon tank, and three (3) 225-gallon tanks. Proposed water storage is 100,000-gallons: twenty 5,000-gallon hard tanks. The ponds recharge rate is 9.5” of rainfall during the period of April - September, which yields approximately 42,500 gallons. The anticipated annual irrigation water need is 185,000 gallons (5.24 gallons per square foot), which is broken down by month in Table 1.

Table 1. Annual Irrigation Water Use (gallons)

Month	Nursery	Mixed light	Light dep.	Outdoor
January	1,000	0	0	0
February	1,000	0	0	0
March	1,000	2,500	6,500	0
April	1,000	5,000	13,000	5,000
May	1,000	5,000	13,000	5,500
June	1,000	5,000	13,000	5,500
July	1,000	5,000	13,000	5,500
August	1,000	5,000	13,000	5,500
September	1,000	5,000	13,000	5,500
October	1,000	5,000	13,000	5,500
November	1,000	0	0	0
December	1,000	0	0	0
<i>Subtotal</i>	<i>12,000</i>	<i>37,500</i>	<i>160,000</i>	<i>33,000</i>
Total				185,000

Power Source

Power for the project is sourced via two (2) generators, however this project is proposed to be conditioned upon transition to 100% renewable energy by 2026 (**Condition A.15**). One generator is 8700-watt Predator Gene and utilized for the mixed light cultivation and ancillary nursery. The other generator is a 4700-watt Predator Gene Harbor Freight and is used instead of the 8700-watt generator when solar conditions are ample. In the interim, to avoid disturbance of Northern Spotted Owl (NSO) and other sensitive species, construction of noise containment structures for all generators and fans on parcel will be required; noise released shall be no more than 50 decibels measured from 100ft or edge of habitat whichever is closer. The mixed light greenhouses, ancillary propagation, and mother stock greenhouses will utilize artificial lighting. All artificial light used for cannabis cultivation operations within the greenhouses will be fully contained within structures such that light does not escape (e.g., through automated blackout curtains) between 30 minutes prior to sunset and 30 minutes after sunrise to prevent disruption to crepuscular and nocturnal wildlife. Security lighting to be motion activated and comply with the International Dark-Sky Association standards and Fixture Seal of Approval Program. Light-emitting diodes (LEDs) will be utilized for ancillary nursery areas that meet the with a color temperature of 3000 kelvins or less and only placed where needed. Greenhouses will be equipped with fans to promote airflow and will have minimal noise impacts.

Fire Hazard

The parcel is located in an area known to have a Very High Fire Hazard Severity, and is within the Bridgeville Fire Protection District for local fire response. The applicant will obtain a will serve letter from the Bridgeville Fire Protection District, or shall 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 A16**). The parcel is located within the State Responsibility Area (SRA) where Cal Fire is the primary emergency response agency responsible for fire suppression and prevention. The project was referred to Cal Fire on April 6, 2023. CalFire responded to the referral on April 6, 2023, and stated that they had no comments regarding the project at that time. The Site Plan shows an emergency vehicle turnaround, and the applicant is required to have a minimum of 2,500 gallons of water storage specifically designated for fire suppression. The designated fire suppression tank shall also have the appropriate fire hose that meets CalFire SRA requirements (**Condition A.11**).

Timber Removal

A Timber Restocking Plan by Timber Resource Consultants, dated January 18, 2019, was developed for the project due to the previous removal of timber from two (2) areas, each approximately 0.30 acres in size. The Registered Professional Forester (RPF) recommends restocking with Douglas-fir with a minimum of 130 seedlings. The applicant shall adhere to the recommendations of the RPF (**Condition A.17**).

Tribal Cultural Resource Coordination

The applicant has submitted a Cultural Resource Investigation prepared by Archaeological Research and Supply Co., dated April 2019. A comprehensive field survey was conducted in February of 2019. The project was referred to the Bear River Band of Rohnerville Rancheria and the Northwest Information Center (NWIC). A response was received from NWIC that recommended that a survey be completed. The Cultural Resource Investigation was forwarded to the Bear River Band of the Rohnerville Rancheria. A response was received from the Bear River Band THPO stating that they agreed with the findings in the CRS report. The project is not anticipated to impact any tribal cultural resources; however, the applicant will be required to adhere to the inadvertent discovery protocol. 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 highway 36 Road, by way of a non-County maintained Road. project was referred to the Department of Public Works on January 9, 2023, and comments were received by the agency on January 12, 2023. Comments from Public Works stated that any recommendations in the Road Evaluation Report(s) for non-County maintained road(s) and shall be constructed/implemented to the satisfaction of the Planning & Building Department prior to commencing operations, final sign-off for a building permit, or approval for a business license. A grading permit may be required; check with the Building Division of the Planning and Building Department for any permit requirements. Additionally, whether specifically addressed or not within the road evaluation report, per Section 1273.03 of State Fire Safe Regulations, California Code of Regulations (CCR), Title 14 Natural Resources, Division 1.5 Department of Forestry, Chapter 7 - Fire Protection, Subchapter 2 SRA Fire Safe Regulations, which have been established pursuant to California Public Resource Code Section 4290 et seq. (a) At no point shall the grade for all roads and driveways exceed 16%; (b) The grade may exceed 16% not to exceed to 20% with approval from the County of Humboldt Planning and Building Department with mitigations, such as paving require an exception to be approved per Section 1270.06. [Note: Fire Safe Regulations set forth in County Code Section 3111-1, et seq. have been superseded by the 01/01/20 CCR since County Code has not been recertified by the Department of Forestry pursuant to Section 1270.04.]. The operations are pre-existing, and no increase in traffic is anticipated.

Employees and Processing

There are up to nine (9) employees proposed as well as Processing and trimming will occur within a proposed 2,000 square foot (40'x50') processing building on-site. The project was referred to the Department of Environmental Health (DEH) on January 9, 2023, and comments were received on January 13, 2023. Comments from DEH included that onsite employee occupancy and processing activities must be supported by an approved onsite wastewater treatment system (OWTS). Seasonal/outdoor cultivation sites may be supported by portable toilets. Applicant must obtain a permit for, and install, and approved OWTS to support employee housing and processing locations and either install approved OWTS or provide portable toilets to cultivation areas. Further, DEH specified that agricultural chemicals and pesticides shall be stored a minimum of 100' horizontal distance from any water well (**Condition A.6**).

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 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 158 cultivation permits and the total approved acres would be 42.3 acres of cultivation.

OTHER AGENCY INVOLVEMENT:

The project was referred to responsible agencies and most responding agencies have either responded with no comment or recommended approval or conditional approval.

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. 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.

2. 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.

ATTACHMENTS:

1. Resolution
 - A. Conditions of Approval
 - B. Cultivation Operations Plan
 - C. Site Plan
2. Location Maps
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
 - A. Final LSAA and addendum
 - B. Site Management Plan
 - C. Timber Restocking Plan
 - D. Biological Assessment
5. Referral Agency Comments and Recommendations
 - A. Department of Environmental Health Comments
 - B. Department of Public Works Comments
6. Public Comment

Applicant NorCal Patient Collective, **Owner** Robert Meinhardt
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Please contact Portia Saucedo, Planner II, at psaucedo1@co.humboldt.ca.us or at (707) 268-3745 if you have any questions about this public hearing item.