



# COUNTY OF HUMBOLDT

## Legislation Text

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File #: 23-669, Version: 1

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**To:** Planning Commission

**From:** Planning and Building Department

**Agenda Section:** Consent

**SUBJECT:**

**Lost Creek Farms, LLC; Conditional Use Permit and Special Permit**

Record Number: PLN-10820-CUP (filed 08/04/2016)

Assessor Parcel Number (APN) 211-184-006

Honeydew area

A Conditional Use Permit for 10,800 square feet of existing, mixed-light, and 1,000 square feet of existing, outdoor, cannabis cultivation. Annual water usage is estimated to be 110,000 gallons/ year (9.3gal/sf). Water for irrigation is sourced from an existing, onsite, permitted groundwater well, which is likely hydrologically disconnected from surface water per analysis from a registered geologist. Water is stored in a bladder (20,000 gallons), and hard tanks (12,500 gallons) for a total of 32,500 gallons. Processing, including drying and trimming, occurs on-site in an existing pagoda. The applicant states that three seasonal employees are needed for operations. Electricity is sourced from a combination of generator and solar power and the project is recommended to be conditioned to transition more completely to solar power by January 1, 2026. A Special Permit is required to reduce the setback to public lands, Bureau of Land Management and State of California, respectively.

**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 prepared for the Lost Creek Farms, LLC project); and
  - b. Finds the proposed project complies with the General Plan and Zoning Ordinance; and
  - c. Approves the Conditional Use Permit and Special Permit subject to the recommended conditions of approval (Attachment 1A).

**DISCUSSION:**

**Project Location:** Project is located in unincorporated Humboldt County, in the Honeydew area, in the northeast quarter of the northwest quarter and the east half of the northwest quarter of the northwest quarter of Section 31, Township 2 south, Range 2 east, Humboldt Base and Meridian.

**Access:** The project is located on a private road, approximately 1.7 miles from the intersection of Panther Gap Road and private road. Using forms provided by the County of Humboldt Department of Public Works (DPW), the applicant had a licensed engineer assess 2.87 miles of roadways leading to the project site and found it to be developed to a Category 4 roadway or better. DPW recommended standard conditions of approval related to fences and encroachments, driveways, and private road intersection visibility be applied to the project.

**Present General Plan Land Use Designation:** Residential Agriculture (RA40), minimum parcel size 40 acres.

**Present Zoning:** Unclassified (U)

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

**State Appeal:** This project is NOT appealable to the California Coastal Commission.

**Major concerns:** None.

**Executive Summary:** An application for a Conditional Use Permit for 10,800 square feet of existing, mixed-light, and 1,000 square feet of existing, outdoor, medical cannabis cultivation. Annual water usage is estimated to be 110,000 gallons/ year (9.3gal/sf). Water for irrigation is sourced from an existing, onsite, permitted groundwater well, which is likely to be hydrologically disconnected from surface water per analysis from Lindberg Geological Consulting dated 12/29/2022. Water is stored in a bladder (20,000 gallons), and hard tanks (12,500 gallons) for a total of 32,500 gallons. Processing, including drying and trimming, occurs on-site in an existing pagoda. The applicant states that three seasonal employees are needed for operations. Electricity is sourced from a combination of generator and solar power. A Special Permit is needed to address setback reduction to publicly owned lands, which include Bureau of Land Management and State of California.

**Bureau of Land Management:** The project site is bordered by Bureau of Land Management (BLM) property consisting of APN 211-184-003 to the South, APN 211-184-002 to the east, and APN 211-184-004 to the northwest. One cultivation greenhouse is located approximately 170 feet from the boundary of the parcels managed by the BLM. This Special Permit will allow for a reduction in the required 600-foot setback from public lands. The adjacent public lands under Bureau of Land Management (BLM) ownership are subject to the *1992 Arcata Resource Area Resource Management Plan and Environmental Impact Statement (RMP)*(Page 45). The lands adjacent to the project site are designated Scattered tracts in the RMP, and area located in management Area 7 near Gilham Butte. Resource objectives in this vicinity include consolidation of Federal ownership, promoting environmental education, and to protect and enhance natural and recreational values along portions of Eel and Van Duzen Rivers' Wild and Scenic Corridors. The project is consistent with the RMP because the cultivation activities will protect fisheries and aquatic habitat on forest lands by maintaining buffers from streams and by placing controls on the storage and use of pesticides, rodenticides and fertilizers,

and will minimize risk from wildfire by adhering to the County's Fire Safe Regulations and the requiring adequate road access. While supplemental lighting would be used for the Mixed Light cultivation, the proposed project will use a blackout curtain system to block artificial light from escaping, so there would be no glare or light pollution associated with the proposed project. The RMP's provisions for protection of heritage resources will be met through the project consultation with Tribal Historic Preservation Officers and avoidance of sensitive tribal cultural resources. The project is consistent with recreational use on public lands by maintaining a minimum 600 buffer separation from developed campgrounds and trails. The applicant is required to cultivate only in the areas and structures depicted on their Site Map and no encroachment or development is authorized on any other parcels or on areas of the subject parcel not identified on the applicant's Site Map.

The BLM lands adjacent to the subject parcel are identified as critical habitat for Marbled Murrelet. A review of the Humboldt County WebGIS also indicates the presence or potential presence of rare, threatened, or endangered species near the subject parcel, including the white-flowered rein orchid (*Pipera candida*), and the Northern Spotted Owl (*Strix occidentalis caurina*). To avoid impacts on these listed species the project has been conditioned to ensure that no light escapes the cultivation area, and that all noise produced by cultivation and processing activities stay below 50 decibels as measured at 100 feet from where the activities would occur.

Humboldt Redwoods State Park: The cultivation is also located within the 600 foot setback from state owned public lands, the Humboldt Redwoods State Park. The project was referred to California State Parks March 22, 2023 and a response from State Parks originally expressed concerns about loose canines affecting sensitive habitat and harassing wildlife. Given that the operations and security plan does not include the use of canines in the operation staff expressed concern about the ability to implement such a restriction. State Parks did respond to County staff and state that they had no further concerns regarding the project (Attachment 5). The cultivation site would be approximately 1,300 feet south from the closest parcel of land in the Humboldt Redwoods State Park. The portion of this parcel adjacent to the project parcel is not used as a developed and designated public park. The adjacent public land is subject to the *Humboldt Redwoods State Park General Plan 2001 (HRSPGP)*. The *HRSPGP* identifies agriculture and ranching, resource extraction, activities on private lands that generate aesthetic or resource impacts, and highway maintenance as adjacent land uses that may cause impacts. The *HRSPGP* states that with road work and the potential for clear-cutting occurring so near the park's boundary, erosion, wind damage, elimination of wildlife corridors, loss of scenic beauty, and the reduction of quality habitat for plants and animals remain issues that must be monitored. The *HRSPGP* also states that adequate buffering of development within the park from adjacent land uses or other mitigation measures must be utilized as potential remedies for adverse impacts to the park's prime resources.

The project is consistent with the *HRSPGP* 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 and 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 the requiring

adequate road access. The *HRSPPG*'s provisions for cultural resource protection will be met through the project consultation with Tribal Historic Preservation Officers and avoidance of sensitive tribal cultural resources. A Cultural resource Survey was conducted by Roscoe and Associates in December 2019 and recommended inadvertent discovery protocol in the event any historical or cultural resources are encountered. Additionally, a Water Resource Protection Plan will be developed for the project to address any potential for developmental impacts to water resources. The plan will be 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.

The Park's nearest developed facility to the project site is the Bull Creek Trail Camp approximately 2.3 miles north of the subject parcel, and South Prairie Trail approximately 1.75 miles to the northeast of the subject parcel. Also, upon review of the *Humboldt Redwoods State Park Road and Trail Management Plan, Public Draft 2017* and the corresponding *Overview of Planning Recommendations Map*, there are no existing or proposed developments within the park that would be impacted as result of the proposed project. South Prairie Trail is expected to be upgraded at some point to accommodate bicycles. Therefore, the project is consistent with recreational use on public lands as the proposed project is not located near developed campgrounds and trails and will not result in impacts to Humboldt Redwoods State Park.

**Water Resources:** Water for irrigation is provided by a permitted groundwater well. The permitted well (Permit No. 08/09-0639) is shown to yield an estimated 20 gallons per minute (gpm) on May 7, 2018. A review of hydrologic connectivity to surface waters was conducted by Lindberg Geologic Consulting December 29, 2022, indicated a low likelihood of the well drawing from or impacting surface waters, or nearby springs, wetlands, or other wells in the area (within 1,000 feet). Water for irrigation is currently stored in a combination of hard-sided tanks and a bladder, totaling 25,000-gallons. Approved grant funding will allow applicants to remove the bladder, increase total storage capacity by 50,000-gal. to 70,000-gal. in hard-sided tanks, and to implement rainwater catchment system to supplement the groundwater well. A Site Management Plan (SMP) was created for the project and includes 18 specific map points for addressing potential threats to water quality, and additional winterization measures to ensure protection of surface waters. Completing and addressing the SMP's mitigation measures for the 18 specific map points is a condition of approval.

**Power Resources:** Power for the operation is provided by a combination of solar and generator. Operations Plan Addendum describes grant funding approval to upgrade the site with additional solar and battery storage, with the goal of eliminating generator power except for emergency backup by 12/31/2024. Conversion to solar and battery from generator as primary is a condition of approval.

**Biological Resources:** A list of potential special status species was generated in January 2023 using the California Native Diversity Database (CNDBB). The project site is located approximately 1.5 miles from the nearest Northern Spotted Owl activity center. Greenhouses using artificial lighting will be covered with light deprivation tarpaulins from dusk until dawn daily, when in use. Additionally,

generator noise is conditioned to be attenuated to 50 decibels (dB) at 100 feet or nearest forested edge, whichever is closer.

Tribal Cultural Resource Consultation: Project as referred to affected tribal entities, including Northwest Information Center (NWIC) and Bear River Band of the Rohnerville Rancheria. A subsequent Archaeological Survey was conducted by Nick Angeloff in February 2019, which included three adjacent parcels under common ownership. While the study determined the presence of culturally sensitive materials and areas, the cultivation is limited to areas outside these locations and the project is conditioned with inadvertent discovery protocol for any ground disturbing activities. Most of the development has already occurred, so likelihood of impacts to sensitive cultural and archaeological resources is low.

This project is located in the Cape Mendocino planning watershed, which is limited under Resolution 18-43 to a total of 650 cultivation permits and 223 acres of total cultivation. If approved the total number of permits in this watershed would be 236 and the total acreage would be 83 acres of cultivation.

Environmental Review: Based on the results of an environmental 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 3 for more information).

#### OTHER AGENCY INVOLVEMENT:

The project was referred to responsible agencies and all responding agencies have either responded with no comment or concerns or recommended approval or conditional approval. (Attachment 5)

#### ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Planning Commission could elect to add or remove conditions of approval; OR
2. The Planning Commission 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.

#### ATTACHMENTS:

1. Resolution
  - A. Conditions of Approval
  - B. Cultivation Operations Plan
  - C. Site Plan
  - D. Cultivation Area Verification (CAV)
2. Location Maps
3. CEQA Addendum

4. Applicant's Evidence in Support of the Required Findings
5. Referral Agency Comments and Recommendations

Owner

Gregory D Ester  
600 F Street, Suite 3, #208  
Arcata, CA 95521-6301

Applicant

Lost Creek Farms, LLC  
600 F Street, Suite 3, #208  
Arcata, CA 95521

Agent

Rain & Zepp, PLC  
517 3<sup>rd</sup> Street, Suite 30  
Eureka, CA 95501

Please contact Planner Devin Sutfin at (707) 445-7541 or via email at [dsutfin1@co.humboldt.ca.us](mailto:dsutfin1@co.humboldt.ca.us) [<mailto:dsutfin1@co.humboldt.ca.us>](mailto:dsutfin1@co.humboldt.ca.us) if you have any questions about the scheduled public hearing item.