



COUNTY OF HUMBOLDT

For the meeting of: 1/19/2023

File #: 23-67

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

SUBJECT:

Punta Canna, LLC, Conditional Use Permit and Special Permit
Assessor's Parcel Numbers: 216-317-006 and 216-317-004
Record Number: PLN-11915-CUP
Alderpoint area

A Conditional Use Permit for 19,500 square feet (SF) of existing outdoor cultivation utilizing light deprivation techniques within 21 greenhouse structures, with and 2,000 SF of existing ancillary propagation. Irrigation water is sourced from a point of diversion located on APN 216-317-006. Existing available water storage is 206,000 gallons in a series of hard-sided tanks. Estimated annual water usage is 228,096 gallons. Drying will occur in a proposed 2,160-square-foot drying building and processing will occur within a proposed 1,140-square-foot structure. A maximum of ten (10) employees may be onsite during peak operations. Power is provided by a 4,000-watt solar array. The applicant has long-term plans for connection to Pacific Gas and Electric Company (PG&E) to offset the needs of the new structures and facilities as proposed. A Special Permit is also requested for development within the Streamside Management Area (SMA) for continued use and maintenance of the point of diversion infrastructure.

RECOMMENDATION(S):

That the Planning Commission:

Adopt the resolutions (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 (CMMLUO) and the Addendum that was prepared for the Punta Canna, LLC, project; and
- b. Finds that 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:

East side of Alderpoint Road, approximately 0.3 miles north from the intersection of Stewart Ranch Road and Alderpoint Road, on the property known as 22660 Alderpoint Road.

Present General Plan Land Use Designation:

Agricultural Grazing (AG), Density: 20-160 acres per dwelling unit, Slope Stability: High Instability (3).

Present Zoning:

Unclassified (U), Agriculture Exclusive (AE-B-5(160)).

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:

Punta Canna, LLC, seeks a Conditional Use Permit to allow the continued cultivation of 19,500 square feet (SF) of existing outdoor cultivation utilizing light deprivation techniques and 2,000 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 Agricultural Grazing (AG) in the Humboldt County 2017 General Plan Update and zoned Unclassified (U) and Agriculture Exclusive (AE-B-5(160)). Cultivation, totaling 16,130 SF, currently takes place within the northwestern portion of the property within seventeen (17) light deprivation greenhouses, with an additional 3,370 SF in three (3) light deprivation structures proposed to be utilized pending completion of a lot line adjustment (described below), for a total of 19,500 SF of cultivation within twenty-one greenhouses. Ancillary propagation occurs within an existing 2,000 SF (20'x100') greenhouse. Two (2) harvests are anticipated annually for a growing season that extends from April through October.

Processing is proposed onsite within a proposed 1,140 SF (20'x57') building, with drying activities to occur in a proposed 2,160 SF (40'x50') structure. A maximum of ten (10) employees may be onsite during peak operations. Power is supplied by a 4,000-watt solar panel array that powers fans in the greenhouses and supplies the onsite residence (see Energy discussion below). The cultivation and processing facility will have low intensity exterior lighting to illuminate the entrances. All lighting will be designed and located so that direct rays are confined to the property and comply with International Dark Sky Association standards.

Cultivation and Nursery Space

As noted above, the application is for 19,500 SF of existing outdoor cultivation and 2,000 SF of ancillary propagation. Based on the County's cultivation area verification (CAV) 21,825SF of cultivation was in existence prior to the CMMLUO environmental baseline date of January 1, 2016 (**Attachment 1D**). Ancillary propagation associated with the operation occurs in the central portion of the existing disturbed areas associated with cultivation within an existing 2,000 SF greenhouse. The project proposal of 19,500 SF and 2,000 SF of nursery space totals 21,500 SF which is 325 SF less than the project area was accredited in the CAV. As such, this propagation area does not represent new cultivation, planning staff is in support of the 2,000 SF of ancillary nursery space.

Lot Line Adjustment:

The applicant originally submitted an application for 19,500 SF of existing outdoor cultivation, which included an existing cannabis cultivation area that was believed to be wholly located on APN 216-317-006. However, a review of the subject site performed by Planning staff found that only 16,500 SF of the cultivation occurred on APN 216-317-006, with an additional 5,325 SF of cultivation occurring on the northern property, identified as

APN 216-317-004, in proximity to the shared property boundary line between these two properties. The total cultivation area of 19,500 SF as described for APN 216-317-006 is dependent on the submission and subsequent approval of a lot line adjustment that would seek to move a portion of the northern property boundary line of APN 216-317-006 further north causing the northward adjacent property identified as APN 216-317-004 to retract a portion of the southern property boundary line which will result in all cultivation activities occurring on APN 216-317-006 as proposed. Until this process has been completed, the amount of cultivation allowed by this application will be limited to the existing cultivation amount of 16,500 as approved by the applicant’s interim permit (**Condition of Approval A.11**). The proposed change in boundaries is depicted on page 2 of the applicants CUP-Plot Plan (**Attachment 1C**).

Water Resources:

Estimated annual water usage is 228,096 gallons (11.7 gal/SF) with peak demand occurring in August at approximately 41,000 gallons, per the table below.

Table 3.1: Estimated Annual Irrigation Water Usage by Month (Gallons)												
Jan	Feb	Mar	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total
-	-	-	25,096	28,000	32,000	36,000	41,000	38,000	30,000	-	-	228,096

Water for irrigation is provided by an onsite point of diversion (POD) registered through the State Water Resources Control Board through a *Right to Divert and Use Water* (Registration #H503567) The *Right to Divert and Use Water* allows for 70 acre-feet (228,096 gallons) of water to be diverted from the unnamed stream that is tributary to the North Dobbyn Creek thence Dobbyn Creek. Storage capacity cannot exceed 0.70 acre-feet (228,096 gallons). The site contains forty (40) 5,000-gallon and three (3) 2,000-gallon hard sided water storage tanks, providing a total of 206,000-gallons of onsite water storage. However, based on the information provided above, there is not currently sufficient water storage available to serve the annual water needs of the project. The appropriative right allows for 228,096 gallons to be diverted annually, which is consistent with the annual water demand; however, the current volume of water storage does not meet forbearance requirements as determined by the State Water Resources Control Board (SWRCB), from April 1 - October 31 annually. As a result, conditions of approval require the installation of additional water storage to meet annual water demand. Specifically, 22,096 additional gallons of water storage shall be added prior to the 2023 cultivation season to meet annual demand. Should the applicant be unable to demonstrate the additional water storage prior to 2023, the applicant is required to reduce the cultivation area to 17,607 SF, which can be supported by the existing water right until the additional water storage is available for use (**Condition of Approval A.10**).

According to Humboldt County Web GIS and depicted on the Site Plan with respective Streamside Management Area (SMA) buffer, North Dobbyn Creek, a Class II stream, runs east to west through the southern portion of the parcel and an unnamed Class III stream runs north to south connecting with North Dobbyn Creek near the southeast portion of the parcel. As shown on the Site Plan, all cultivation activities and respective infrastructure excluding the point of diversion located in the unnamed stream would be located outside of the required SMA buffer.

A Site Management Plan (SMP; WDID: 1b170089CHUM) was created for the project by NorthPoint Consulting Group (NorthPoint) dated August 2018 (**Attachment 4E**) that conforms to the requirements of a Water Resource Protection Plan (WRPP) in compliance with the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R1-2015-0023. The SMP identified the site as having a historic use as a mobile

home park with those historically graded areas being repurposed for cannabis cultivation. The development of a rolling dip to an internal access road used to access the hard sided water storage tank location is the only specific improvement prescribed as a part of the SMP, otherwise the site is described as adhering to the guidance provided by the Handbook for Forest, Ranch, and Rural Roads (“Road Handbook”) by Pacific Watershed Associates, and all existing cultivation areas occur on areas with slopes less than 30%. Additional recommendations made include adherence to seasonally appropriate monitoring and reporting to ensure that sediment mobilization does not occur to surface waters of the state, proper winterization procedures are adhered to, and year-round maintenance of all erosion prevention and sediment materials as required. The project is conditioned to require the applicant to implement all remaining corrective actions contained in the SMP (**Condition of Approval A.14**).

A Final Streambed Alteration Agreement (SAA; Notification No. 1600-2018-0593-R1) was issued by the California Department of Fish and Wildlife (CDFW) in February 2022 (Attachment 4A) which includes the review and approval of two points of diversion, POD 1 authorized for domestic use only and is located on APN 216-317-007 and the second POD 2, authorized for cannabis irrigation described as being located on 216-317-004 however it resides on APN 216-317-006 to act as a seasonal diversion from an unnamed tributary to North Dobbyn Creek. Per the conditions of the SAA, no more than three gallons per minute (3 gpm) may be diverted at any time, the permittee is required to pass 80% of the flow at all times to keep aquatic species including fish and other aquatic life in good condition below the point of diversion, and water may not be diverted outside of December 1 through March 31 (**Ongoing Conditions of Approval B.11 -13**).

Biological Resources:

Per review of CDFW’s California Natural Diversity Database (CNDDDB) in September 2022, there is the potential for one mapped sensitive species onsite *Howellia auatilis* however this species was removed from the List of Endangered and Threatened Plants effective July 16, 2021. The nearest Northern Spotted Owl (NSO) positive sighting is located approximately 1.06 miles north of the nearest cultivation area, with the nearest NSO activity center mapped to a positive observation is located approximately 1.77 miles away, respectively. Power is supplied by a 4kw solar panel array that powers fans in the greenhouses and supplies the onsite residence. No more than 20% of the sites power needs will be obtained from generator or non-renewable energy sources. Initially, the applicant proposed PG&E connection to offset the needs of the new structures and facilities as proposed. However, due to recent information from PG&E, it seems unlikely there will be capacity to increase service in the near future. As such, the applicant plans to add additional solar panels and upgrade the inverter system to further ensure operations can be supported fully through renewable energy sources (see Energy discussion below). The cultivation and processing facility will have low intensity exterior lighting to illuminate the entrances. All lighting will be designed and located so that direct rays are confined to the property.

The applicant has an approved Final Streambed Alteration Agreement (SAA) that covers the two (2) encroachments for water diversion as discussed above, as well as four (4) more encroachments, including two culvert upgrades, and two remediations for unpermitted alterations to riparian vegetation and 100 feet of stream channel (**Attachment 4A**). Work associated with these encroachments will include the use and maintenance of the water diversion infrastructure, removal of the failing culverts and replacement with new properly sized culverts which will require backfilling and compaction of fill, and rock armoring as necessary to minimize erosion. The remediation efforts include excavation work to reestablish the natural flow path of the stream, and the remediation of unpermitted grading and riparian tree removal, both are required to maintain consistency with the remediation plan dated March 16, 2021.

The Remediation plan prepared by NorthPoint Consulting Group (**Attachment 4C**), was drafted to address three violations described in the *Notice of Violation* dated July 17, 2020, found on parcels identified on APNs:

216-317-006, -007, and -008. Per the remediation plan, Remediation Area 1 occurs on 216-317-004 on the southwest portion of the parcel which is proposed to become an extended portion of parcel 216-317-006 post Lot Line Adjustment (LLA) and is located directly north of the cultivation area as proposed. Remediation activities will include the removal of non-organic waste and woody debris, disturbed areas will be revegetated, and any non-native species are to be removed. These remediation activities will conform to Best Management Practices (BMP's) outlined by the North Coast Regional Water Quality Control Board (NCRWQCB) and Best Practicable Treatment or Control (BPTC) measures outlined by the State Water Resources Control Board (SWRCB). The creation of a sediment basin is proposed to act as a further catchment mechanism to ensure additional materials are not transported to waters of the State. Remediation Areas 2 and 3 occur on the west side of Alderpoint Road located on APN 216-317-007 as depicted by the Humboldt County WebGIS. This parcel is not associated with the proposed cannabis cultivation activities by this project.

Additional 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 A.19-22 and Ongoing Conditions of Approval B.4-9 and 10**). Further, the Applicant is required to adhere to all conditions as approved in the SAA including adherence to the approved Remediation Plan. 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.

Energy:

Electricity will be sourced from eight (8) solar panels connected to four (4) deep cycle batteries with a generator onsite for emergencies and minor supplemental use. No more than 20% of the sites power needs will be obtained from generator or non-renewable energy sources. Initially, the applicant proposed PG&E connection to offset the needs of the new structures and facilities as proposed. However, due to recent information from PG&E, it seems unlikely there will be capacity to increase service in the near future. As such, the applicant plans to add additional solar panels and upgrade the inverter system to further ensure operations can be supported fully through renewable energy sources. 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 A.8**).

Access:

Access to the site is via a private access road 0.17 miles in length via Alderpoint Road, a County-maintained category 4 or equivalent road. The application submitted a Road Evaluation Report form with a Route map and photos, dated August 2018 prepared by NorthPoint Consulting Group for the private drive not maintained by the County (**Attachment 4G**). The Road Evaluation Report describes the private access road as meeting a Category 4 road equivalent standard and is adequate for the proposed use. Per comments received from the Department of Public Works, Land Use Divisions dated May 2019, included three recommended conditions of approval that the applicant is required to adhere to:

- 1) All fences and gates shall be relocated out of the County right of way. All gates shall be setback sufficiently from the County Road so that vehicles will not block traffic when staging or tope/close the gate. In addition, no materials shall be stored or placed in the County right of way,

- 2) All driveways and private road intersections onto the county Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance),
- 3) If the County Road has a paved surface at the location of the access road, the access road shall be paved for a minimum width of 20 feet and a length of 50 feet where it intersects the County Road.

All three conditions shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license (**Conditions of Approval A.9i, A.9ii, and A.9iii**).

Geologic Suitability:

The project parcel is mapped in the County GIS as high instability. The location of existing cultivation is 30% slope or less according to the Site Management Plan (see **Attachment 4E**). Conditions of approval require all structures associated with cannabis operations be permitted through the Building Inspection Division according to the California Building Code to ensure structures are constructed in a safe manner (**Condition of Approval A.6**).

Timber Conversion:

Review of satellite imagery taken between 2012 and 2021 of the project site does not show signs of timber conversion the project does not propose any timber conversion activities. As such, no loss of timber resources is expected to the site through approval and implementation of the project as described and conditioned by this permit. Referral comments from CAL FIRE did not support the project as it appears timber removal would be required (**Attachment 5C**). However, the Humboldt County WebGIS parcel lines are approximate and showed all cultivation occurring on APN: 316-371-004. Planning staff responded to CAL FIRE comments on January 11, 2023, to clarify the location of the existing cultivation and provide the most recent site plan. No additional comments were received.

Security and Safety:

Security measures for the project sites includes gated access off Alderpoint Road, security lighting, and storage locations will be locked at all times while not in use.

Tribal Consultation:

The project is within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria and the Wiyot tribe. The project was referred to the Northwest Information Center at Sonoma State and Bear River. A Cultural Resources Investigation dated August 2019 was performed by Archaeological Research and Supply Company. The investigation final report was reviewed by the Bear River Tribal Historic Preservation Office which recommended the standard inadvertent discovery protocol which has been incorporated into the project as a condition of approval (**Informational Notes 3**).

Consistency with Humboldt County Board of Supervisors Resolution No. 18-43:

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 Middle Main Eel Planning Watershed, which under Resolution 18-43 is limited to 360 permits and 125 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 362 permits and the total approved acres would be 45.75 acres of cultivation.

OTHER AGENCY INVOLVEMENT:

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

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Planning Commission could elect to add or delete conditions of approval. The Planning Commission could deny approval if unable to make all the required findings. Staff has concluded the required findings in support of the proposal can be made. Consequently, staff does not recommend further consideration of these alternatives.

ATTACHMENTS:

1. Draft Resolution
 - A. Conditions of Approval
 - B. Cultivation Operations Plan
 - C. Site Plan
 - D. Cultivation Area Verification
2. Location Map
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
 - A. Final Streambed Alteration Agreement
 - B. CDFW Notice of Violation
 - C. CDFW Remediation Plan
 - D. Notice of Intent
 - E. Site Management Plan
 - F. Right To Divert and Use Water
 - G. Road Evaluation
5. Referral Agency Comments and Recommendations
 - A. Building Inspection Division Response
 - B. Public Works, Land Use Division Response
 - C. CAL FIRE Comments and Response
 - D. State Water Resources Control Board Response

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Please contact Max Hilken, Planner, at hilkenm@lacoassociates.com or 707-443-5054, if you have any questions about the scheduled item.