



COUNTY OF HUMBOLDT

For the meeting of: 1/5/2023

File #: 22-1788

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

SUBJECT:

Denali Farm LLC Conditional Use Permit
Assessor Parcel Number 210-250-008
Record No.: PLN-10989-CUP
Dinsmore area

Conditional Use Permit for 7,713 square feet of existing mixed light and 17,813 square feet of existing outdoor commercial cannabis cultivation supported by a 512 square foot ancillary nursery. The 255,000-gallon annual irrigation water budget is sourced exclusively from rainwater catchment and supported by 264,700 gallons of storage. Power is provided by a generator supplemented by a solar array. Drying will occur onsite and any additional processing will occur offsite. The project includes restoration and relocation of approximately 10,000 square feet of outdoor cultivation and includes a Special Permit for restoration within the streamside management area.

RECOMMENDATION(S):

That the Planning Commission:

Adopt the resolution (Resolution 23-__). (Attachment 1) which does the following:

- a. Finds that the Planning Commission has considered the Mitigated Negative Declaration previously adopted for the Commercial Medical Marijuana Land Use Ordinance as well as the Addendum to the Mitigated Negative Declaration that was prepared for the Denali Farms LLC project pursuant to Section 15164 of the CEQA guidelines; and
- b. Finds that the proposed project complies with the General Plan and Zoning Ordinance; and
- c. Approves the Conditional Use Permit subject to the recommended conditions of approval (Attachment 1A)

DISCUSSION:

Project Location:

The project is in Humboldt County, in the Dinsmore area, on the West side of Hidden Valley Road, approximately 2 miles North from the intersection of State Highway 36 and Hidden Valley Road, on the property known to be in Section 13 of Township 01 North, Range 04 East, Humboldt Base & Meridian.

Present General Plan Land Use Designation:

Residential Agriculture (RA40), Density: 40 acres per unit; Timberland (T), Density: 40-160 acres per unit, 2017 General Plan, Slope Stability: High Instability (3)

Present Zoning:

Agricultural Exclusive (AE), Timber Production (TPZ)

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:

Onsite relocation proposed for TPZ area.

Executive Summary:

Conditional Use Permit for 7,713 square feet of existing mixed light and 17,813 square feet of existing outdoor commercial cannabis cultivation supported by a 512 square foot ancillary nursery. The 255,000-gallon annual irrigation water budget is sourced exclusively from rainwater catchment and supported by 264,700 gallons of storage. Power is provided by a generator supplemented by a solar array. Drying will occur onsite and any additional processing will occur offsite. The project includes restoration and relocation of approximately 10,000 square feet of outdoor cultivation and includes a Special Permit for restoration within the streamside management area.

Staff is recommending approval of 7,713 square feet of existing mixed light but only 15,348 square feet of existing outdoor cultivation. The reduction of 2,465 square feet of outdoor cultivation is because this is the amount that is being proposed to be increased on the TPZ zoned portion of the parcel as part of the onsite relocation. Increasing the amount of cultivation on the TPZ zoned portion of the parcel will exceed what was considered as baseline conditions under the Mitigated Negative Declaration and would be inconsistent with the assessment conducted by a Registered Professional Forester who recommended that no additional conversion occur onsite. The site is severely constrained by slopes and streamside management areas and there is no environmentally superior location available to accommodate the entire 10,000 square foot historic cultivation area that will be restored. The remaining 7,535 square feet of onsite relocation will be placed on the AE portion of the parcel. The project includes a condition of approval (**Condition of Approval A7**) requiring the applicant to update the site plan and operations plan consistent with staff recommendations.

Water Resources:

The annual 255,000-gallon irrigation water budget is sourced exclusively from rainwater catchment supported by 264,700 gallons of water storage. Including the ancillary nursery water usage translates to approximately 9.79 gallons per square foot. The applicant analyzed 50 years of rainfall data and using the mean of the five driest years of 35.29 inches, demonstrated that adequate water can be collected from surfaces to meet water needs. For comparison the average rainfall over the last 50 years is 66.79 inches. The amount of water storage also exceeds the annual water use providing further water security. Irrigation and fertigation will occur using a combination of drip emitters and top-feed hand water methods.

Wastewater services are provided by portable toilets for cultivation workers. The existing septic system will not be used to support cultivation operations. (**Condition of Approval B1**).

Biological Resources:

A Biological and Aquatic Resources Assessment dated July 2020 prepared by Kyle Wear was provided. The

assessment identified the presence of Tracy's tarweed, which has a California Rare Plant Rank (CRPR) of 4.3. Because Tracy's tarweed is relatively common in Humboldt County, the assessment concluded that its presence was not locally significant and therefore no protection measures were recommended. The assessment also identified a small population of rein orchid but was unable to rule out if it was white-flowered rein orchid (*Piperia candida*) which has a CRPR rank of 1B.2. A follow up visit by Mr. Wear on April 23, 2022, was also unable to rule out the presence of white-flowered rein orchid noting that the blooming period is late June or July. However, Mr. Wear noted that location of the rein orchid is isolated to one area of the property that is adjacent to roads that are used to access the cultivation area that is proposed to be abandoned and restored. The Biological Assessment Addendum dated April 24, 2022, concluded that even if the white-flowered rein orchid is present, it will not be impacted by the proposed project.

The assessment also identified the presence of 10.5 acres of Oregon white oak woodland and concluded that the project will not impact this natural community. The assessment did not find there would be a significant impact on any species of concern. Additionally, there are two Northern Spotted Owl activity centers nearby. One center (HUM0925) is 1.4 miles northwest and the other (HUM0983) is 1.5 miles to the east. The assessment concluded that the project would not impact spotted owl habitat. The project is conditioned to not generate noise more than 50 decibels at 100 feet or the forest edge, whichever is closer (**Condition of Approval C2**).

Onsite Relocation

Approximately 10,000 square feet of outdoor cultivation is located along the southwestern boundary of the parcel. Some of this cultivation area encroaches on streamside management areas. The applicant provided an analysis demonstrating that relocation of this cultivation in association with restoration will be environmentally superior. The relocation is also supported by the April 24, 2022, addendum to the Biological Assessment. However, the site is severely constrained by slopes and streamside management areas and there is no environmentally superior location available to accommodate the entire 10,000 square foot historic cultivation area that will be restored. Therefore, staff is recommending 7,535 square feet of onsite relocation to be placed on the AE portion of the parcel. The project includes a condition of approval (**Condition of Approval A7**) requiring the applicant to update the site plan and operations plan consistent with staff recommendations. The remaining 2,465 square feet of relocation proposed for the TPZ portion of the parcel is not supported by the available evidence provided. Relocating additional cultivation to the TPZ portion of the property is also not consistent with the recommendations of a Registered Professional Forester.

Violations

On September 24, 2020, the California Department of Fish and Wildlife issued a Notice of Violation on the property. Consultation with CDFW has resulted in a condition of approval requiring that the NOV be resolved prior to cultivation activities resuming on the property (**Condition of Approval A5**). Additionally, an update to the onsite restoration plan is also required to be consistent with the restoration activities described in the LSAA and NOV (**Condition of Approval A6**).

Energy:

The site uses one 45kW MultiQuip Diesel Power generator and battery banks to power the residence, drying buildings, and the mixed light greenhouses in the spring. Solar panels will power the water pumps and greenhouse fans. The project is conditioned such that an alternative renewable energy plan that will be fully implemented by January 1, 2026, such that generator use may be reserved for emergency use only (**Condition of Approval A9**).

Access:

Access to the parcel is taken from Hidden Valley Road, a private road, which takes access from Larabee Valley

Road, also a private road, which takes access from Highway 36, a paved state highway. Both private roads are maintained by a road association. The applicant provided a road evaluation stating the road segments are developed to the equivalent of a category 4 standard and the road is adequate for the proposed use. The applicant provided road evaluation is consistent with other road evaluations conducted by a licensed engineer that were provided to the department for nearby approved cannabis projects that take access from the same road segments.

The project was referred to Public Works which requested the road evaluation. The project was also referred to the Bridgeville Fire Protection District which did not respond. In responses to comments provided by CalFire, the project is conditioned to update the site plan to indicate the locations of emergency vehicle turn around(s) and water tank(s) dedicated to fire suppression (**Condition of Approval A10**). Additionally, the project is conditioned to add signing and building numbers to aid in an emergency response.

There will be up to three employees at peak operations and the site plan depicts three parking spaces.

Geologic Suitability:

The project parcel is mapped in the County GIS High instability. The entire parcel has few areas of 15% slope or less. No new grading is proposed to implement the project. After the fact grading permits are required for grading that was done as part of historic operations (**Condition of Approval A2**).

Timber Conversion:

There is no timber conversion associated with the existing cannabis cultivation. Because the property is located within a high to very high fire hazard area, the applicant provided a Fire Risk Analysis prepared by a Registered Professional Forester (RPF). The analysis included an examination of the onsite relocation and whether it could be conducted without increasing fire risk or loss of timberlands. The report recommends maintaining defensible space around structures and cultivation sites. The report notes, that in some cases tree removal for defensible space can enhance forest health by clearing encroachment of Douglas fir in oak woodlands. The RPF further recommends that cannabis cultivation relocation and consolidation shall not result in timberland conversion. Additional recommendations include fuel reduction as well as guidance on handling equipment than can be a source of fire. All recommendations from the RPF are incorporated as conditions of approval (**Condition of Approval B10**).

Security and Safety:

The security plan for the operation includes a locked gate, signage, appropriate security lighting and security cameras.

Tribal Consultation:

The project is within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria. The project was referred to the Northwest Information Center at Sonoma State and Bear River. A Cultural Resources Investigation dated June 2018 was performed by William Rich. 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 (**Condition of Approval C1**).

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 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 for cultivation in this Planning Watershed would be 120 permits and the total approved acres would be 49.97 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
2. Map Set
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
 - A. Bio and Aquatic Resource Assessment
 - B. Bio Assessment Addendum
 - C. Site Management Plan
 - D. CDFW LSAA
 - E. CDFW NOV
 - F. RPF Fires Risk Analysis and Recommendations
 - G. Relocation, Restoration, and Environmental Superiority Analysis
 - H. Rainwater Analysis
5. Referral Agency Comments and Recommendations
 - A. Building Inspection Response
 - B. DEH Response
 - C. CalFire Response

Applicant

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Owner

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File #: 22-1788

Agent

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Please contact Steven A. Santos, Senior Planner, at sasantos@co.humboldt.ca.us or 707-268-3749 if you have any questions about the scheduled item.