



COUNTY OF HUMBOLDT

For the meeting of: 4/4/2024

File #: 24-400

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

SUBJECT:

Panther Canyon Investments, LLC Conditional Use Permit
Assessor Parcel Numbers (APN) 223-061-041 and 223-074-008.
Record No.: PLN-12441-CUP
Benbow Area

A Conditional Use Permit for 29,200 square feet of outdoor commercial cannabis cultivation. Estimated annual irrigation water usage is 290,000 gallons. Rainwater Catchment will provide 292,000 gallons of water to be stored in rigid tanks. Cannabis will be bucked and dried on site and sent to a licensed processing facility for trimming and packaging. Power is provided by a generator and applicant will transition to renewable energy. The proposal includes onsite relocation and restoration.

RECOMMENDATION(S):

That the Planning Commission:

1. Adopt Resolution (Resolution 24-__) (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 Panther Canyon Investments LLC project; 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 located in Humboldt County, in the Benbow area, on the East side of US Highway 101, approximately 270 feet West from the intersection of Greycliff Road and East Branch Road, and approximately 600 feet North from the intersection of East Branch Road and a Private Drive on the property known to be in Section 30 of Township 04 South, Range 04 East,

Humboldt Base & Meridian.

Present General Plan Land Use Designation: Agricultural Grazing (AG); 2017 General Plan; Density: 20-160 acres per unit; Slope Stability: Low Instability (2)

Present Zoning: Timber Production Zone (TPZ)

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

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

Major concerns: None



Executive Summary: Panther Canyon Investments LLC seeks a Conditional Use Permit for 29,200 square feet of existing outdoor commercial cannabis cultivation operation in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, CMMLUO. The site is designated as Agricultural Grazing (AG) in the Humboldt County 2017 General Plan and zoned Timber Production Zone (TPZ). The applicant proposes to relocate eight historic cultivation sites within the property to an environmentally superior location. Many of these historic cultivation areas were located on slopes greater than 30% and/or have no road access and are proposed to be relocated to the main cultivation flat. The past cultivation is proposed to be relocated onto the existing flat roadway in outdoor pots near the existing hoop houses. Relocating the cultivation onto the existing roadway is accessible via a gravel road, thus reducing the erosion potential of downhill foot and vehicle traffic to inaccessible historic cultivation areas. The relocation of scattered cultivation sites is proposed as an environmentally superior option. All proposed relocation areas are already disturbed. Figure 1 below shows the existing flat area where relocation is proposed. All retired cultivation areas

will be restored, and all cultivation-related materials will be removed and properly reused or disposed of at a licensed facility. No additional clearing or conversion of timberland is proposed as part of the relocation of existing cultivation. The relocation will allow restoration of approximately 23,590 square feet of guerrilla grow sites that lack road access. The Restoration Plan (**Attachment 4A**) documents the areas to be restored, restoration methods to be used and the environmental superiority of the relocation cultivation sites.

Figure 1

No on-site trimming is proposed, with drying/curing activities to take place in an existing 45'x35' barn. Cultivation will occur in greenhouses in raised beds using amended soil and outdoors in pots. The project proposes using portable toilets to meet the sanitary needs of employees. Two annual harvests will occur in July and October.

In addition to the Agent in Charge and full time Lead Cultivator, the applicant intends to employ up to four seasonal laborers for an estimated total of six employees maximum at the project site at any given time. No onsite housing is proposed. No septic system currently exists onsite. Employees will utilize portable toilets, which will be regularly serviced as required by a qualified professional. Anti-bacterial liquid soap and paper hand towels will be made available. Employees will work at a distance typically no greater than 500 feet from the portable toilets.

A Generator will be used for on-site power of the dry building. There currently are no generators onsite, as the site has not been cultivated in the past four years. The exact specification of generator has not yet been determined. Use of the generator will follow all guidelines set by Humboldt County and the State of California. The generator will be located away from the property line to ensure the noise level does not exceed 60 decibels at the property line. The generator and fuel will be in a secondary containment trough. No processing would occur onsite. Product may also be fresh frozen and not dried onsite, reducing power demand. The project will be required to transition to 100% renewable energy by January 1, 2026, and use generators for emergency purposes only (**Condition A15**).

Irrigation water is sourced from rainwater catchment off the barn, two greenhouses and rain catching tanks. Existing available water storage includes 17,000-gallons of hard plastic tanks. The project proposes adding fifty-five 5000-gallon rain catchment tanks to support the cultivation operation. Estimated annual water usage is 290,000 gallons (9.9 gal/SF).

The existing, pre- January 1, 2016, cultivation area was verified using July 31, 2014, TerraServer Data. A Certificate of Subdivision Compliance, Document Number 2019-008915, recorded on May 23, 2019, confirmed the legality of the parcel that is enumerated with two assessor's parcel numbers, 223-061-041 and 223-074-008.

Water Resources: The total annual water usage for irrigation is estimated at 290,000 gallons (9.9 gal/sf/yr). The irrigation water source for the project is rainwater catchment. The project proposes using rain catchment off the existing 35' x 45' barn, a 120' x 30' Greenhouse, a 110' x 30' Greenhouse and fifty-five (55) rain collecting tanks.

Humboldt County's WebGIS and the Site Plan (Attachment 1C) show no mapped streams, watercourses, or associated Streamside Management Area (SMA) buffers on the project parcel.

The applicant prepared a rainwater catchment analysis for the project. Water storage tanks will be plumbed to catchment surfaces (the existing 35' x 45' barn, two greenhouses, and 55 tanks) to collect and store rainwater for use during the dry period. The rainwater catchment analysis uses a 20-year average of the five lowest rainfall years in the period between 2002 and 2002. The analysis concludes that in a drought year the proposed rainwater catchment system will be able to capture 307,700 gallons which is 6.2% more than the proposed water use for the project. Table 3 in Attachment 1 B, Operations Plan, details rainwater catchment surfaces and harvest volumes for a drought rainfall year.

Timber Conversion

A review of National Agriculture Imagery Program (NAIP) aerial imagery from 2010 to 2022 does not indicate significant conversion of timberland has occurred on the property. "Panther Canyon Investments, LLC Restoration Plan for APNs: 223-061-041 & 223-074-008" Northpoint Consulting, April 2020 details the locations and the methods by which historic grow sites are proposed to be restored. After evaluation and management for invasive plant species, tanoak (*Notholithocarpus densiflorus*), Pacific madrone (*Arbutus menziesii*), bay laurel (*Umbellularia californica*), Douglas fir (*Pseudotsuga menziesii*), California buckeye (*Aesculus californica*), Oregon ash (*Fraxinus latifolia*), and/or Blueblossom (*Ceanothus thyrsoiflorus*) will be planted as appropriate.

Biological Resources

Per review of the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB) on December 16, 2023, there are no mapped special status species onsite. The project is located approximately 5.7 miles away from the nearest known Northern Spotted Owl (NSO) activity center. This activity center is on the other side of the Eel River and Highway 101. Given the distance from reported activity centers, and the geographic and man-made features between the project and the activity centers, the project is unlikely to have any detrimental NSO impacts. The ongoing conditions of approval for the project include the following requirements: compliance with International Dark Sky Standards for lighting within the propagation greenhouse and ensuring that all noise levels do not go above 50 decibels at 100-feet or any tree line when noise generating equipment are in use (**Condition B6, B7, B8**).

The project was referred to CDFW on October 22, 2020, and CDFW responded with their final comments on February 14th, 2024. These comments have been addressed with the conditions of approval (**Condition A9**).

Tribal Cultural Resource Coordination

The project was referred to the Northwest Information Center (NWIC) and the Bear River Band of the Rohnerville Rancheria on October 22, 2020. There was Cultural Resources Investigation performed in the project's area of potential effect at the request of the Bear River Band of the Rohnerville Rancheria. An investigation was conducted by William Rich and Associates in January of 2022. The investigation concluded that no archaeological or historic-period cultural resources exist in the limits of the project

area. The NWIC responded that their office has no record of any previous cultural resource studies for the project area but that the project area has the possibility of containing unrecorded archaeological site (s), and a study is recommended prior to commencement of project activities. The Bear River Band of the Rohnerville Rancheria reviewed the Cultural Resources Investigation and concurred with its findings, requesting the Inadvertent Discoveries Protocol be an ongoing condition of approval to protect cultural resources and tribal cultural resources.

Access

The project is accessed from the County-maintained Sproul Creek Road, and then onto approximately three miles of privately maintained roads. As requested by Public Works, a Road Evaluation Report was prepared for the Private Roads to the intersection of Sproul Creek Road. The permittee shall take action to form or join a Road Maintenance Association (RMA) for the maintenance of the private roads. Sproul Creek Road has a paved surface at the intersection of the access road; therefore, The Humboldt County Department of Public Works requires that the private access road be paved for a minimum width of 20 feet and a length of 50 feet where it intersects the County Road. Staff confirmed that the apron was improved to meet the specified standards. Given the multiple other private properties that access Sproul Creek Road the applicant is conditioned to join a Road Maintenance Association to conduct the required improvements identified by the road evaluation. In the event the applicant is unable to coordinate formation or join an RMA, the permittee shall pay fair-share cost for maintenance and improvement of the road to any road user engaged in maintaining the roads **(Condition A13)**.

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 MND that was adopted for the CMMLUO and has prepared an addendum to this document for consideration by the Planning Commission (See Attachment 3 for more information).

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 in the Lower Eel River Watershed, which under Resolution 18-43 is limited to 336 permits and 116 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 77 cultivation permits and the total approved acres would be 35.6 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 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 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. Restoration Plan
 - B. Road Evaluation
5. Referral Agency Comments and Recommendations
 - A. Humboldt County Public Works
 - B. CDFW CEQA
 - C. Humboldt County Environmental Health
6. Watershed Map

Applicant

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