



COUNTY OF HUMBOLDT

For the meeting of: 7/6/2023

File #: 23-980

To: Planning Commission
From: Planning and Building Department
Agenda Section: Public Hearing

SUBJECT:

CaliDro LLC Conditional Use Permit
Assessor Parcel Number 208-221-014
Record No.: PLN-10656-CUP
Dinsmore Area

A Conditional Use Permit for 17,000 square feet of existing mixed-light commercial cannabis cultivation supported by a 1,700 square foot ancillary nursery. Irrigation water is provided by a well located on adjacent parcel 208-221-009. Estimated annual water usage is 185,000 gallons supported by 180,000 gallons of water storage consisting of a 30,000 gallon pond and 150,000 gallons of hard tanks. Onsite processing is proposed and electricity is sourced from two generators. The project includes onsite relocation of cultivation and restoration.

RECOMMENDATION(S):

That the Planning Commission:

1. Request that staff present the project.
2. Open the public hearing and receive testimony from the public.
3. Close the public hearing and take the following actions:
4. 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 CaliDro 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 (Exhibit A); and
 - d. Approves the Cultivations Operations Plan (Exhibit B) and Site Plan (Exhibit C).

DISCUSSION:

Project Location:

The project is in Humboldt County, in the Dinsmore area, on the northeast side of Bear Creek Road, approximately 1.8 miles due north as the crow flies from the intersection of Bear Creek Road and

Dinsmore Road, on the property known to be in Section 28 of Township 02 North, Range 05 East, Humboldt Base & Meridian.

Present General Plan Land Use Designation:

Residential Agriculture: 40 acres (RA40), 2017 General Plan, Density: 40 acres per unit, Slope Stability: High Instability (3).

Present Zoning:

Forestry Recreation (FR), Minimum building site area is 40 acres (B-5(40)).

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:

Past violations; Significant grading on steep slopes.

Executive Summary:

A Conditional Use Permit for 17,000 square feet of existing mixed-light commercial cannabis cultivation supported by a 1,700 square foot ancillary nursery. Irrigation water is provided by a well located on adjacent parcel 208-221-009. Estimated annual water usage is 185,000 gallons supported by 180,000 gallons of water storage consisting of a 30,000-gallon pond and 150,000 gallons of hard tanks. Onsite processing is proposed and electricity is sourced from two generators. The project includes onsite relocation of cultivation and restoration.

The proposed onsite processing may not occur until the proposed structure is permitted for commercial occupancy and is served by a permitted septic system and ADA parking space. In response to unresolved violations, comments from CDFW, and changes to the project over time, there are several conditions that must be met before the permittee may engage in cultivation (Conditions A7 through A11).

For the protection of ephemeral surface waters near the irrigation well that flow into the Mad River, the project is conditioned to require forbearance of the well between May 15 and October 15. Improvements to access roads will be required as part of a compliance agreement and all energy sources must migrate to renewable by January 1, 2026.

Water Resources:

The estimated annual water budget of 185,000 gallons is sourced from a groundwater well located on APN 208-221-009 to the north. Including the ancillary nursery, water usage translates to

approximately 9.89 gallons per square foot. The applicant has provided documentation of an easement to access the well. A Water Sustainability Evaluation for the well conducted by Bonnie Lampley, a Certified Hydrologist, from Lawrence and Associates was provided by the applicant. The evaluation concludes that the bottom of the well is 435 feet higher than the Mad River which is approximately 1,780 feet away and "...is unlikely that the well is hydraulically connected to the Mad River." The evaluation also identifies two springs within one quarter mile of the well concluding "...the springs are unlikely to be hydraulically connected to the water bearing unit at the well location." The evaluation concludes that the total water demand is less than 2% of estimated annual recharged likely to occur on the parcel containing the well stating "...deep percolation of precipitation on the parcel would be sufficient to supply the project demand." The well evaluation did not identify any nearby wells and concluded there would be no interference with any potential well beyond the parcel boundary because the long-term pumping rate would 0.5 gallons per minute (gpm) to serve the cannabis operations. That pumping rate is well below the amount observed during a discharge test that concluded the well could yield 5 gpm without any drawdown. While the well evaluation makes clear conclusions regarding connection to the Mad River, it does not analyze any potential effect on unnamed tributaries within 1000 feet of the well that flow directly into the Mad River. Staff analysis concludes that because these unnamed tributaries are classified as ephemeral (Class III), an underground stream channel is unlikely and therefore any direct hydraulic connection is unlikely to exist. However, for additional security and protection of the unnamed tributaries, the project is conditioned to require forbearance of use of the well between May 15 and October 15 (**Condition of Approval B1**). Additionally, the permit is also conditioned to require the applicant to provide documentation demonstrating that adequate water is stored prior commencing operations as well as ensure that there is no interconnectivity between the cannabis irrigation system fed by the well and any other water source (**Conditions of Approval A7 and B2**).

Per the Operations Plan, irrigation is conducted using a timed, metered drip irrigation system. There is an existing 30,000-gallon pond on the parcel that is not shown on the site plan. A site plan update is required as a condition of approval before cultivation operations commence (**Condition of Approval A2**). An additional thirty, 5,000-gallon hard tanks are proposed to be installed for total water storage of 180,000 gallons.

The project was referred to the Division of Environmental Health which responded that seasonal cultivation without processing may use portable toilets to serve the operation or install a permitted onsite wastewater treatment system associated with a permitted structure. Onsite processing will not be allowed until a commercial structure is permitted and a permitted septic system constructed (**Condition of Approval B3 and B4**).

Biological Resources:

Review of the California Natural Diversity Database (CNDDDB) indicates that the nearest mapped Northern Spotted Owl activity center (HUM0019) is 6,000 feet to the northeast. Per the operations plan, structures using artificial light will have blackout tarps manually pulled to ensure compliance with Dark Sky standards to eliminate light from escaping the structures 30 minutes prior to sunset and 30 minutes after sunrise (**Condition of Approval C3**). Use of the generator is subject to the standard condition limiting noise to 50dB at 100 feet from the generator or at the edge of the nearest forest

habitat, whichever is closer (**Condition of Approval C2**). As proposed and conditioned, the project is consistent with CMMLUO performance standards and will not negatively impact the Northern Spotted Owl.

The CNDDDB also included a notation regarding the potential presence of Bolander's catchfly (*Silene bolanderi*). This species has a rare plant index of 1B.2 (Plants rare, threatened, or endangered in California and elsewhere; fairly threatened in California). This species is known to grow under oaks and no oaks are proposed to be removed as part of the project which is for existing cultivation in previously disturbed areas along existing roads. However, the project is conditioned to require a biological assessment for the presence of this species prior to placing any new facilities such as water lines to the well or the additional water tanks (**Condition of Approval A8**).

The water lines from the well to the cultivation areas will cross several stream channels. The project is conditioned requiring water lines to stay out of stream channels and be elevated when crossing stream channels and cross at a perpendicular angle (**Condition of Approval B5**).

Onsite Relocation and Restoration

The project site includes a decommissioned historic cultivation area. The applicant provided an environmental superiority analysis stating that a portion of the historic cultivation area is within the streamside management area for the Mad River. Applicant has already consolidated the historic decommissioned cultivation area with the other two cultivation areas along the main road. The operations plan proposes removal of any remaining cultivation infrastructure, non-native soils, and human made materials. A brief restoration plan calls for the planting of Coyote Brush in three plant, five-foot side triangles 15 feet apart to cover the 3,500 square foot area. The restoration plan calls for bi-annual monitoring and reporting. Staff is recommending that the restoration plan also include a native grass seed mix for erosion control as well as a three-year monitoring period for success once planting is done along with 85% survival rate success criteria. If the 85% survival rate is not achieved after three years, additional planting and an extension of the monitoring period will be required (**Condition of Approval A12**).

Past and Current Violations

This site has been subject to extensive grading without the benefit of county review. This grading occurred both before and after 2016 and includes cuts into slopes ranging in steepness from 25% to 45%. Grading and sediment loading also occurred within the riparian buffer of a Class III waterway. As part of a compliance agreement with the Code Enforcement Unit, the applicant has applied for after the fact grading permits. The project is conditioned such that cultivation in Greenhouses one through three may not occur until the grading in the riparian buffer is remedied and a stormwater plan provided that directs surface flow away from the channel. The stormwater plan and grading remediation must be reviewed and approved by the county prior to cultivating in this area (**Condition of Approval A9**).

Per CDFW comment, there is an unresolved notice of violation on APN 208-221-009 that contains the irrigation well. Access to and maintenance of the well in addition to the installation of water lines for

the cannabis cultivation pass through the area subject to the CDFW notice of violation which creates a nexus between the cannabis project and the unresolved notice of violation on the adjacent parcel. Therefore, the project is conditioned that, prior to utilizing the well, the applicant must provide documentation from CDFW demonstrating that use, access, and maintenance of the well on parcel 208-221-009 is consistent with the issued LSAA for that property (**Condition of Approval A10**).

In June of 2020 a search warrant was served on the property by law enforcement because cultivation was occurring without permits and cultivation exceeded the historical baseline. The plants were abated, and fines were levied and paid. An April 2021 inspection by staff identified trash, non-native soils with perlite, and hazardous materials were being released into the environment and migrating down the steep slopes toward the Mad River. In May 2021, correspondence was sent to the applicant giving 30 days to secure and stabilize the site. Applicant's agent sent a letter in October 2022 with some photos showing that the site had been partially cleaned up and some remaining items had been consolidated for additional removal. The letter included a receipt demonstrating trash was hauled from the site in April 2022. Photos were also provided showing that straw was placed to mitigate migration of non-native soils. Prior to cultivation resuming, the project is conditioned on the applicant scheduling a post approval inspection to verify that no trash or non-native soils or perlite are migrating toward the Mad River and have been removed to the extent practicable. The inspection must evaluate all historic, expansion, as well as current cultivation areas (**Condition of Approval A11**).

In October 2021 Pacific Watershed and Associates created a Disturbed Area Stabilization Plan (DASP) related to some of the historic grading violations (Attachment 4D). The project is conditioned such that the applicant must implement all the measures described in the DASP (**Condition of Approval A15**).

Energy:

Two 5,000-watt generators will initially provide power for the mixed light cultivation. Per the operations plan, the generators will be fully enclosed with proper containment. The project is conditioned to migrate electricity for the cannabis operation to all renewable sources by January 1, 2026, reserving generator usage for emergencies only (**Condition of Approval A6**). The site plan depicts the two generators proximate to the two cultivation areas. The operations plan and site plan describe a barn as associated with the cannabis operation for storage, administrative hold, and future processing. This barn is located a significant distance from the cultivation areas. It is unknown how this structure receives power if any. The project is conditioned such that the barn may not receive primary power from a third generator (**Condition of Approval A17**).

Access:

Access to the parcel is taken from River Road, County Line Creek Road, and other unnamed private roads accessed from Highway 36 in Trinity County. The applicant provided a road evaluation performed by an engineer, David Nicoletti. The evaluation concluded that the private access road and River Road can handle the expected and cumulative traffic safely if the following recommendations are implemented:

- Construct three (3) turnouts.
- Repair several road sections that have been impacted by slides.

- Clear and maintain nearly all culverts.
- Construction of six (6) additional roadside ditches to channel water flow.
- General maintenance including mowing vegetation along the roadside and clearing roadside ditches.

Due to the number of cultivation projects along River Road, both approved and pending, conditions of approval require the applicant to take steps to form or join a Road Maintenance Association (RMA) for the maintenance of the roads. In the event the applicant is unable to coordinate formation or join an RMA, the applicant shall pay fair-share cost for maintenance of the road to any road user engaged in maintaining the road (**Condition of Approval A16**).

The project was referred to Public Works which responded stating the project has no direct effect on any facilities maintained by Public Works. The project was referred to CalTrans which did not respond. The project was also referred to the Ruth Lake Community Service District which responded with comments that the property is not within its jurisdiction. The project is conditioned to obtain a will serve letter from the fire protection district (**Condition of Approval A4**). The project site plan depicts an emergency vehicle turnaround as well as water storage dedicated to fire protection.

There will be up to two employees at peak operations per the operations plan. The site plan does not depict the location of parking for employees, nor does it show an ADA compliant space associated with the proposed onsite processing building. A site plan update is required as a condition of approval before cultivation operations commence (**Condition of Approval A2**).

Geologic Suitability:

The project parcel is mapped in the County GIS as high instability. No portion of the property has less than 15% slopes. The cultivation areas are mapped either 15-30% slope or 30-50% slope. No new grading is authorized to implement the project. As described in the violations section portion of this staff report, after the fact grading permits are required for grading that was done previously without permits.

Timber Conversion:

No timberland conversion is associated with this project. The CalFire referral response states no issues with the project as proposed.

Security and Safety:

Per the project operations plan, access to the parcel is gated and locked. The site plan depicts one 2,500 gallons tank dedicated to fire suppression.

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 which recommended a Cultural Resources Survey. Consultation with the Bear River Band THPO resulted in a determination that no survey was needed. Although no survey was requested by the Bear River Band THPO, the standard inadvertent discovery protocol was requested and 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 Mad River Watershed, which under Resolution 18-43 is limited to 334 permits and 115 acres of cultivation. With the approval of this project the total approved permits for cultivation in this Planning Watershed would be 74 permits and the total approved acres would be 27.48 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 w/ addendum
 - C. Site Plan
2. Map Set
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
 - A. Water Sustainability Evaluation for Well
 - B. Environmental Superiority Analysis
 - C. Relocation/Restoration Plan
 - D. Disturbed Area Stabilization Plan
 - E. Road Evaluation
5. Referral Agency Comments and Recommendations
 - A. DEH Response
 - B. CDFW Response
 - C. CalFire Response
6. Watershed Map

Applicant

CaliDro LLC
749 Atherton
Novato CA 94945

Owner

File #: 23-980

Eric Drosihn
749 Atherton
Novato CA 94945

Agent
DW Law
628 H Street
Eureka CA 95501

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