



COUNTY OF HUMBOLDT

For the meeting of: 12/5/2024

File #: 24-1649

To: Planning Commission

From: Planning and Building Department

Agenda Section: Public Hearing

SUBJECT:

Punta Canna, LLC, Conditional Use Permit and Special Permit, Lot Line Adjustment and Zone Boundary Adjustment, and Land Conservation Contract Amendment
Assessor's Parcel Numbers: 216-317-006, 216-317-004, 216-371-010 et al.
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. 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.

Also proposed is a Lot Line Adjustment between two parcels of 17 acres and 200 acres, whereby an equal exchange of 2.4 acres would occur. A Zone Boundary Adjustment is included in order to adjust the zone boundary to be consistent with the adjusted parcel boundary. The existing Land Conservation Contract for the ranch that includes the 200-acre parcel will be rescinded and a new contract executed, to reflect the amended parcel boundary.

RECOMMENDATION(S):

That the Planning Commission:

Adopt the resolution, (Attachment 1) which does the following:

- a. Finds the Planning Commission has considered the Addendum to the Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) that was prepared for the Punta Canna, 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 conditions of approval (Attachment 1A).
- d. Recommends that the Board of Supervisors approve the Zone Boundary Adjustment and rescinds the existing Land Conservation Contract for Robert D. Prior/Harold Prior and Carol Launer, and enters into a new revised contract.

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.

The proposed Williamson Act Contract Amendment is exempt from CEQA pursuant to Section 15317 of the CEQA Guidelines (Open Space Contracts).

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). 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. 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.

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 16,130 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. An interim Permit was issued only for the amount on the property and the total cultivation area of 19,500 SF as described for APN 216-317-006 is dependent on the completion of the proposed lot line adjustment that would consolidate the property with the remaining cultivation onto the Punta Canna property. Until this process has been completed, the amount of cultivation allowed by this application will be limited to the existing cultivation amount of 16,130 as approved by the applicant’s interim permit (**Condition of Approval A.5**). The proposed change in boundaries is depicted on page 2 of the applicant’s Site 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 appropriate 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 cultivation of the full amount requested. This aligns with the requirement to not cultivate the amount above 16,130 until a Lot Line Adjustment is completed as **(Condition of Approval A.5)**. the amount that exists on the subject property (before the proposed Lot Line adjustment is complete) is less than the amount that can be supported by the existing water storage.

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 4B**) 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.12**).

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 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**).

A Special Permit is required for the continued use and maintenance of the point of diversion associated with this proposed project as a source of irrigation for back up use in years of low rain fall. This is an existing point of diversion that is authorized by both the SWRCB and CDFW. Adherence to requirements for both agencies, including use of appropriately-size equipment, diversion of water during rainy season and under certain stream flow requirements will ensure impacts to the SMA are minimized. Therefore, Planning staff supports continued use of the point of diversion that would be authorized by a Special Permit.

Biological Resources:

The nearest mapped NSO activity center is approximately 1,350 feet to the west, however this is located across Alderpoint road from the property and is a single sighting dating to 2000. Power is supplied by a 4kw solar panel array that powers fans in the greenhouses and supplies the onsite residence. 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.

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. Remediation efforts include excavation work to reestablish the natural flow path of the stream, and the remediation of unpermitted grading and riparian tree removal.

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 (**Ongoing Conditions of**

Approval). 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. 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 transition to use of 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 4D**). 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 to open/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 (**Conditions of Approval A.9**).

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. No timber removal is proposed for this project. 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.

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 which did not find anything cultural sensitive. 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 Note D.3**).

Public Trust Resources

All water for irrigation comes from a diversion to the unnamed stream that is tributary to the North Dobbyn Creek thence Dobbyn Creek. There are no known uses of these watercourses for water-borne commerce or recreational paddling or swimming activities, however these waterways do contain important fishery resources. Dobbyn Creek and North Dobbyn Creek provide important habitat for winter run steelhead trout. The diversion of 228, 096 gallons per year will occur during the winter months, however the terms of the SAA require additional restrictions on the use of this diversion in order to specifically protect aquatic species such as the winter-run steelhead. 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. With these restrictions in place, the use of the stream diversion for cannabis should have no discernable adverse effect on public trust resources.

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 106 permits and the total approved acres would be approximately 45 acres of cultivation.

Lot Line Adjustment

The proposed Lot Line Adjustment is between the Punta Canna property, which is a parcels approximately 17 acres in size, and an adjacent parcel of 200 acres. An equal exchange of 2.4 acres

would occur. The Lot Line Adjustment can be approved because the parcels were created in conformance with the Subdivision Map Act and the Lot Line Adjustment, as proposed, will not create any nonconformity to county code or result in any existing nonconformity becoming more nonconforming. The land being adjusted is an area of property encroachment that has occurred for cannabis cultivation and infrastructure, which would be adjusted into the Punta Cana property with an equal exchange of 2.4 acres to provide additional access to water for the larger Prior land, which is located within a Williamson Act Agricultural Preserve and under a Land Conservation Contract.

A Zone Boundary Adjustment is included in order to adjust the zone boundary to be consistent with the adjusted parcel boundary. The existing Land Conservation Contract for the ranch that includes the 200-acre parcel will be rescinded and a new contract executed, to reflect the amended parcel boundary. The County's Williamson Act Advisory Committee has reviewed the proposed adjustment and contract amendment and recommended that it be approved.

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**). The County's Williamson Act Advisory Committee has reviewed the proposed adjustment and contract amendment and recommended that it be approved.

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. Site Management Plan

- C. Right To Divert and Use Water
- D. 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
 - E. Planning Staff Request for Comments from CDFW dated January 11, 2023.
 - F. CDFW Response to Planning Staff Request for Comments dated January 27, 2023
 - G. WAC Draft Minutes 10.22.2024.
- 6. Watershed Map

APPLICANT, OWNER, AGENT AND PLANNER INFORMATION:

Applicant

Punta Canna, LLC, C/O Ivan Fiallo, P.O. Box 579, Redway, CA 95560

Owners

Punta Canna LLC CO, P.O. Box 579, Redway, CA 95560

and

Stephanie Launer, P.O. Box 23, Eureka, CA 95502

Agent

Oxalis, Holly Carter, 901A Redwood Street, Garberville, CA 95542

Planner

Please contact Cliff Johnson, Assigned Planner, at cjohnson@co.humboldt.ca.us or 707-445-7541 if you have any questions about the scheduled item.