



COUNTY OF HUMBOLDT

For the meeting of: 2/20/2025

File #: 25-290

To: Planning Commission

From: Planning and Building Department

Agenda Section: Consent

SUBJECT:

Old Harris Farms LLC Conditional Use Permit
Assessor Parcel Number (APN) 216-136-006
Record No.: PLN-12573-CUP
Alderpoint area

A Conditional Use Permit for 19,695 square feet of existing outdoor cannabis cultivation operation with 1,968 square feet of appurtenant nursery space. Irrigation water will be provided by a permitted well and a rainwater catchment pond. Cultivation water is stored in an existing pond (511,000 gallons), and hard tanks (23,750 gallons) for a total of 534,750 gallons. Annual cultivation water use is 186,000 gallons. Drying and curing will occur on-site, all other processing will occur off-site at a licensed processing facility. Electricity is provided by a gas generator, but the project will convert to renewable energy by January 1, 2026, reserving generators for emergency use only. The project includes a Special Permit for actions in a streamside management area.

RECOMMENDATION(S):

That the Planning Commission:

1. Adopt resolution (Resolution 25-___), (Attachments 1) which does the following:
 - a. Finds the Planning Commission has considered the Mitigated Negative Declaration previously adopted for the Commercial Medical Marijuana Land Use Ordinance and the Addendum that was prepared for the Old Harris Farms LLC project (Attachment 3); and
 - b. Finds the proposed project complies with the General Plan and Zoning Ordinance; and
 - c. Approves the Old Harris Farms LLC Conditional Use Permit subject to the conditions of approval (Attachments 1A).

DISCUSSION:

Project Location: The project is located in Humboldt County, in the Alderpoint area, on the east side of Harris Road, approximately 2.7 miles north from the intersection of Bell Springs Road and Harris Road, then east on a private road for approximately 1.0 miles, on the property known to be in the northeast quarter of Section 20 and the northwest quarter of Section 21, Township 04 South, Range 05 East.

Present General Plan Land Use Designation: Agricultural Grazing (AG); 2017 General Plan; Density: 20 -160 acres per unit; Slope Stability: High Instability (3)

Present Zoning: Agriculture Exclusive [AE-B-5(160)]; Timberland 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: None

Executive Summary: A Conditional Use Permit for 19,695 square feet of existing outdoor cannabis cultivation operation. Full sun cannabis cultivation will occur on graded flats and an existing roadbed. Young plants are nurtured in two greenhouses totaling 1,968 square feet. The project includes relocation of cultivation areas that are located partially within the streamside management area of an ephemeral watercourse and a wetland. The project proposes relocating these cultivation areas to an environmentally superior location. The cultivation areas and associated infrastructure is shown on the site plan, **Attachment 1C**. Irrigation water for cannabis is supplied by a rainwater catchment pond and a permitted well. Irrigation water is stored in the 511,000-gallon rainwater catchment pond and 23,750-gallons of hard plastic tanks. The project has 4,000 gallons of water storage dedicated to domestic and fire suppression use. Water for cannabis cultivation is used from March to November. Water source, storage and use is detailed in the Operations Plan, **Attachment 1B**. The 276-acre parcel's legality is established by the recorded Notice of Merger and Subdivision Compliance, document number 2017-020415. The project is in the Alderpoint area of the Middle Main Eel Watershed.

The parcel occupies an east-west trending ridge with elevations ranging from 700-feet to 1,200-feet. Most of the activities on the parcel occur along this ridge. Jewett Creek, a Class I stream, flows north along the eastern boundary of the parcel. Vegetation communities include mixed-conifer hardwood forest, oak woodland, and prairie. The parcel was likely a ranch for many years and has been logged at least once. The project includes onsite relocation of cannabis cultivation areas. The purpose of the relocation is to remove cannabis cultivation from streamside management areas and wetlands. A wetland delineation, **Attachment 4E**, prepared in October of 2018, concluded that the relocation of cultivation areas and cultivation infrastructure would be necessary to protect the waters of the United

States. The applicant provided a Relocation Evaluation which documents the environmental superiority of the relocation sites shown on the site plan, **Attachment 1C**.

Staff from the California Department of Fish and Wildlife (CDFW) conducted a site inspection on November 18, 2024. The referral comments from CDFW are incorporated as **Attachment 5A**. The site inspection identified several possible impacts to wildlife and watercourses. CDFW comments resulted in project conditions that are further described in the Water Resources and Biological Resources sections of this report and in **Attachment 1A** Conditions of Approval.

Green waste is composted in a designated area away from surface waters as noted on the site plan. Organic fertilizers and pesticides are stored in an agricultural storage structure that meets all requirements for secondary containment. All fuel and hazardous materials are stored in secure areas with secondary containment in accordance with applicable regulations. Garbage and recycling are stored in a secure waste storage area. The waste storage area complies with Best Practical Treatment or Control (BPTC) measures to prevent wildlife tampering and transport of waste to waters of the State. Waste is removed from the property every two weeks and transported to an approved waste disposal facility. Domestic wastewater treatment is managed with a proposed onsite wastewater treatment system that will be permitted with the Humboldt County Department of Environmental Health. The applicant will pursue permitting for the proposed septic systems upon project approval. The project is conditioned that portable toilets must be used until approval of a permitted onsite wastewater treatment system (OWTS) (**Condition of Approval B.3**). In addition, the project is conditioned that evidence is provided to County staff during annual inspections to confirm the continual use of portable toilets to serve the needs of cultivation staff until the OWTS and residence is permitted. The applicant submitted an OWTS suitability analysis **Attachment 4G** that concluded that based on the calculations from soil type, percolation testing and the proposed project, approximately 129 feet of leachfield trench would be required for the project and a 1200 gallon septic tank. The cultivation and operations plan states that 3 employees or contracted workers would be necessary for the operation and that carpooling would be implemented as needed (**Attachment 1B**).

Water Resources:

Irrigation water is supplied by a 511,000-gallon rainwater catchment pond and a permitted well. Total estimated annual water use is 186,000 gallons/year (9.3 gallons/square foot). Tanked water storage totals 23,750-gallons and the project includes a 1,500-gallon dedicated fire tank. A Water Management Plan is included in the operations plan for the project. Watering practices primarily include a focused drip irrigation system, with occasional top-feed hand watering based on need.

The applicant provided a rainwater catchment analysis for the pond (**Attachment 1B**) ETA Management Group, November 2024. The analysis found that direct rainfall and sheet flow contribution in an average rainfall year would amount to 873,128 gallons. After accounting for infiltration, the net annual water input to the reservoir is approximately 719,836 gallons. Less the evaporation coefficient the total usable volume of the pond is 511,000 gallons. The applicant intends

to utilize less than 170,000 gallons from the pond for cannabis irrigation annually.

The comments from CDFW (**Attachment 5A**), indicate that there are no streams flowing into the pond, but the pond outflows into a Class III drainage, and is the start of a Class III drainage. Which means that pond is hydrologically connected to the stream channel. While CDFW would consider the pond to be on-stream due to this connection, the Waterboard's definition of on-stream differs. Since there are no stream channels flowing into the pond, for water rights and permitting purposes it is likely not considered to be an on-stream pond. Staff initiated consultation with the State Water Resources Control Board's (SWRCB) Division of Water Rights to determine the need for a water right for cultivation use of the pond's water. SWRCB has not responded to staff consultation and staff has determined, based on the location of the pond and the ephemeral watercourse, that water rights will not be required for use of the pond.

If correspondence with SWCB's Division of Water Rights concludes a water right is required for the pond, the applicant is conditioned to secure said right within two years of project approval. If the Water Board believes that a water right is needed, and the applicant is unable to secure a SWRCB-required water right for the pond the applicant must develop water storage facilities sufficient to provide 140,000-gallons of water per year or cultivation area must be reduced proportionally to the water deficit. Alternatively, the permittee may provide a hydrological evaluation of the well, prepared by a licensed geologist, that documents the well's capability to provide at least 186,000 gallons of water annually without impacts to surface water or public trust resources. (**Condition of Approval A.5**).

Cultivation water needs can be entirely met with water stored in the pond, however if the Division of Water Resources requires a water right for the pond and that right is not granted, the use of the well becomes the primary cultivation water source. The applicant was not able to procure a surface water connection report for the well from a licensed geologist; staff performed the following analysis to determine the potential for the well's connection to surface water resources. The applicant provided a well completion report (WCR2018-008736) (**Attachment 4A**) for the well that was drilled in 2018. The well head is located at 40.10636562, -123.6387511 degrees and is at an elevation of approximately 1,220 feet above sea level. The well was drilled to a depth of 200 feet below ground surface (BGS) using a rotary drill. The well is located on a flat opening in an oak woodland that slopes to the northeast. The terrain in the well's vicinity generally slopes down to the northeast where the slope intersects with Frenchman Creek. The elevation of the bottom of the well is approximately 1,020 feet. The well head is located 1,224 feet south-southwest of the nearest point on the Frenchman Creek, the nearest intersecting point on the creek is at an elevation of 1,010 feet. The confluence of Frenchman Creek and Jewett Creek is .77 miles east of the wellhead. Jewett Creek joins the Eel River 3.12 miles northeast of the well. There is a Class III ephemeral water course that is an unnamed tributary to Frenchman Creek located 25 feet north of the well, at approximately the same elevation.

The drillers encountered brown topsoil from 0-20 feet BGS, blue clay from 20-65 feet BGS, clay from 60-80 BGS, shale from 80-120 feet BGS, and fractured blue sandstone from 120-180 feet BGS, and solid blue sandstone from 180-200 feet BGS. First water was encountered at 140 feet BGS. The well is cased from the surface down to 140 feet BGS with a 6-inch diameter, solid, low-carbon steel casing. The well screened between 140 and 200 feet below ground surface with torched slots. The well is sealed with a non-hydrated bentonite fill layer down to 24 feet BGS further protecting the well from surface water infiltration. The blue clay layer is an indication of the well's disconnection from surface waters; the bearing unit of the well is below the clay layer. Blue clay is known as an antibacterial aquitard with low permeability. The closest waterbody to the well is an unnamed ephemeral watercourse. While the watercourse is in recharge area for the well, based on the location of the blue clay layer in relation to the bearing unit of the well it is unlikely that the well would intercept seasonal surface water flows in the watercourse. Given the lateral distance of the well, 1,224 feet, to Frenchman Creek, and the existence of the blue clay layer over the bearing unit of the well, it is unlikely that there is any surface water connectivity to Frenchman Creek. A Class III ephemeral watercourse, which is a seasonal tributary to Frenchman Creek, is approximately 25 feet to the north. The typical area of groundwater recharge is dependent on-site topography and soils. In this case, it is possible that the ephemeral water course is within the well's estimated recharge area. The well's sealing and the clay layer above the bearing unit of the well make the likelihood of hydrological connectivity to the well low. Because this is an intermittent watercourse that only carries water in response to rain events, it is unlikely to have any connection to a subsurface aquifer. Given the physical characteristics of the well, and the geologic characteristics of the well's substrate, it is unlikely that the well has any hydrologic connection to surface water resources. Accordingly, there will be no adverse impact on public trust resources associated with Frenchman Creek, Jewett Creek or the Eel River as a result from the use well for irrigation purposes. Bolstering this finding is the fact that the applicant has developed enough water storage to meet the annual domestic and cultivation water needs for the project.

According to available USGS information (Fine-scale hydrologic modeling for regional landscape applications, Flint 2013), approximately 34% of precipitation goes to groundwater recharge in Northwest California. According to the Prism Climate Group the lowest rainfall year of the last 20 years within the vicinity of the project site was 20.95 inches in 2013, meaning that even in a substantial drought year like 2013, a total of 7.12 inches (34% of total), or .6 acre-feet (195,511 gallons) of rainfall is available for groundwater recharge per acre in this area. The total available recharge on the 275-acre parcel would be approximately 53.8 million gallons, meaning that even in a substantial drought year the irrigation needs would be less than .3% of the total available groundwater recharge occurring on the parcel.

At the initial installation of the well, a 4-hour drawdown test was conducted that indicated the well could produce 5 gallons per minute. During the test the first water was encountered at 140 feet. This yield test, conducted on July 20, 2018, shows that the well can produce 300 gallons per hour in what is a dry part of the year. While the initial drawdown test is not always a good indicator of the long-

term yield of a well, the test shows that the well was an adequate producer at the time of the test. Furthermore, the applicant has been using the well as a source of water for the cultivation operation for the last five growing seasons with no water shortages or dry down events. This indicates that production of the well is in sync with the water demand of the project. The applicant has been conditioned to maintain the use of the pond as the primary source of cultivation water. If the California Division of Water Resources determines that a water right is needed for the use of the pond's water, the applicant has been conditioned to secure that right. If that right cannot be secured the applicant is conditioned to develop water storage or rainwater catchment facilities sufficient to provide 140,000 gallons of water per year or the cultivation area must be reduced proportionally to the water deficit. The applicant shall be limited to utilizing the well for 46,000 gallons of cultivation water between May 15th and November 1st. Alternatively, the permittee may provide a hydrological evaluation of the well, prepared by a licensed geologist, that documents the well's capability to provide at least 186,000 gallons of water annually without impacts to surface water or public trust resources (**Condition of Approval A.5**).

On April 22, 2020, a final Lake and Streambed Alteration Agreement, LSAA, 1600-2019-0332, (**Attachment 4B**) was issued to the applicant to upgrade two stream crossings, to decommission a stream crossing, to restore a stream channel, and to decommission and restore riparian habitat due to cannabis cultivation the Streamside Management Area (SMA). California Department of Fish and Wildlife (CDFW) conducted a site inspection on November 18, 2024, and identified the following concerns:

The applicant's LSAA will expire on April 22, 2025. CDFW requested that the applicant extend and amend the LSAA. The applicant is conditioned to update and amend LSAA, 1600-2019-0332 prior to April 22, 2025, submit a Revegetation Plan for the Western Cultivation Site (located at coordinates 40.106236, -123.640953) and submit a Bullfrog Management Plan to CDFW for review and approval (**Condition of Approval A.3**). While onsite, CDFW observed cultivation related materials located in the Streamside Management Area (SMA) of a Class III drainage (at coordinates 40.10669, -123.63914). The applicant is conditioned to remove cultivation related materials from the SMA prior to cultivation in 2025 (**Condition of Approval A.15, A.16**).

The project is conditioned to install water meters at the well and the outlet of the rainwater collection pond, and/or the rainwater collection tanks and to keep monthly records of water usage. The water meter records shall be made available to the Planning Department at each annual inspection or as requested by planning staff (**Condition of Approval A.2**).

The project referral to the Division of Environmental Health (DEH) resulted in a request for conditions of approval. The project is conditioned requiring the use of portable toilets for cultivation activities unless a septic system is permitted in association with a permitted structure (**Condition of Approval B.3**). The applicant submitted a site suitability analysis for a septic onsite wastewater treatment system (**Attachment 4F**) and it is noted there is a septic system currently on site next to the residence

but the compliance and permitting status of the system is unknown.

Biological Resources: A review of the California Natural Diversity Database did not indicate the potential of any special status plants or animals on the project site. The nearest mapped Northern Spotted Owl activity center is approximately 2.8 miles to the southeast (HUM0223). While onsite, CDFW observed grading and vegetation removal associated with two relocated cultivation sites. The two relocated cannabis sites include potential habitat for *Tracyina rostrata*, as the plant has been documented within 3 miles of the project area (CDFW, 2024). Prior to any additional vegetation removal, grading or ground disturbing activities, protocol level surveys for *Tracyina rostrata* shall be conducted by a qualified botanist (**Condition of Approval A.14**).

While onsite CDFW observed cultivation cages, pots and debris related to cannabis cultivation located in a stream channel (at coordinates 40.10608, -123.64094). Prior to cultivating cannabis in 2025, debris related to cannabis cultivation shall be removed from the stream channel (**Condition of Approval A.15**). In addition, cultivation related materials located in the Streamside Management Area (SMA) of a Class III drainage (at coordinates 40.10669, -123.63914) shall be removed prior to the commencement of cultivation in 2025 (**Condition of Approval A.16**).

The project has been conditioned to ensure supplemental lighting associated with the nursery and mixed light cultivation adheres to Dark Sky Association standards including security lighting (**Condition of Approval B.8**). Permit conditions of approval also prohibit using synthetic netting (**Condition of Approval B.10**), ensure refuse is contained in wildlife-proof storage (**Condition of Approval B.11**), and prohibits use of anticoagulant rodenticides to further protect wildlife (**Condition of Approval B.13**). As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively affect the northern spotted owl or other sensitive species.

Onsite Relocation: The applicant conducted a Cannabis Relocation Study in February 2019 (**Attachment 4C**). The north and west cultivation areas were in the Streamside Management Area and were potentially impacting wetlands near the pond. A Restoration Plan was submitted with the Environmentally Superior Site Analysis (**Attachment 4C**) The Applicant completed the relocation of the cannabis in 2024. The restoration of the retired sites is partially completed, and their final completion is included in the project as (**Conditions of Approval A.3, A.8, A.15, A.14**). These conditions include some minor restoration work in Streamside Management Areas; a Special Permit for that work is included in this project.

Energy: Power is currently provided by generators. The applicant revised their operations plan to eliminate mixed light cultivation; the proposed full term outdoor cultivation needs less electricity. The project is conditioned to convert to renewable energy no later than January 1, 2026 (**Condition of Approval A.12**).

Access: The project is accessed from a private driveway off Harris Road. The applicant submitted a road evaluation for the driveway (**Attachment 4D**). The road evaluation concluded that the driveway was developed to a standard equivalent to a Catagorry 4 road. The Humboldt County Department of Public Works requested that if the County Road has a gravel surface at the location of the access road, the access road shall be rocked for a minimum width of 20 feet and a minimum length of 50 feet where it intersects the County Road. This requirement has been included as (**Condition of Approval A.11**)

Geologic Suitability: The applicant submitted a R2 Soils Report in December 2019, (Attachment 4H). The soils report did not identify any geological or soil conditions that would require special mitigations for safety. The relocation cultivation sites are less than 15% slope and the project is conditioned to receive permits or exemptions for existing structures and grading associated with the cannabis operation (**Condition of Approval A.10**).

Timber Conversion: The site is sparsely treed oak woodland and prairie. Staff review of time-sequenced air photos did not indicate the removal of trees for the purpose of cannabis cultivation associated with the project. The site was inspected by staff on November 19, 2024, and no evidence of tree cutting was noticed. No new tree cutting is proposed as part of the project. CalFire referral replied with standard project conditions.

Security and Safety: The applicant has implemented security measures to safeguard the product and prevent nuisance from occurring on the property. Cultivation at the project occurs behind locked gates.

Tribal Consultation:

The project is located within the Bear River Band of the Rohnerville Rancheria's Aboriginal Ancestral Territory. The project was referred to the Bear River Band of Rohnerville Rancheria, and the Northwest Information Center (NWIC) April 16, 2018. NWIC had no record of any previous cultural resources for the project area, NWIC recommended consultation with the local tribal representatives. A response was received from the Bear River Band tribe on April 26, 2019, requesting a cultural resources inventory report. A Cultural Resource Inventory Report was prepared by Archaeology Research and Supply Company in September of 2019. No historic or prehistoric cultural markers were found as a result of this investigation. The Cultural Resource Inventory Report was referred to the Bear River Tribe for review and the Bear River Band Tribal Historic Preservation Officer concurred with the findings in the report and requested the applicant adhere to Inadvertent Discovery Protocols and shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist and the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and the lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided (**Condition of Approval B.1**).

Public Trust Resources: The project is in the Middle Main Eel River Watershed; the project is 2.93 miles south west of the Eel River. Perington Creek, a perennial watercourse, flows through the southern portion of the parcel and joins Jewett Creek on the eastern boundary of the parcel. Jewett Creek flows into the Eel River. The project includes the restoration of a class III ephemeral watercourse that originates at the pond and continues northeast to Frenchman Creek which is also a tributary to the Jewett Creek. The well provides 48,000-gallons to the project's water budget. Staff determined that the well was unlikely to have a connection to surface water resources. The rainwater collection pond provides the balance of the water budget. The Eel River provides recreational opportunities for swimming, boating, and fishing. The project collects water in the rainy season from November 1st to April 31st when the river has excess water due to rainfall. Water from the tanks and pond are used in the dry season when the public trust resource of the river is limited. The project has no impact on flows during the dry season, thus the use of the stored water and the hydrologically disconnected well for irrigation purposes will not cause any significant adverse impact to the Eel River or otherwise substantially impair the public trust uses or values related to commerce, navigation, fisheries, public access, preservation of trust lands in their natural state, or water-related-recreation and other activities.

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 Middle Main Eel Planning Watershed, which under Resolution 18-43 is limited to 360 permits and 125 acres of cultivation. With the approval of the project the total approved permits in this Planning Watershed would be 111 permits and the total approved acres would be approximately 46.5 acres of cultivation.

Environmental Review:

An environmental review for this project was conducted and based on this analysis, staff concludes that all aspects of the project have been considered in a previously adopted Mitigated Negative Declaration (MND) that was adopted for the CMMLUO. Staff has prepared an addendum (Attachment 3) to the MND for consideration by the Planning Commission.

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)

ATTACHMENTS:

1. Draft 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
5. Referral Agency Comments and Recommendations

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