



COUNTY OF HUMBOLDT

For the meeting of: 11/16/2023

File #: 23-1521

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

SUBJECT:

Panther Rock Growers, MBC
Assessor's Parcel Numbers: 210-162-007
Record Numbers: PLN-11496-CUP
Dinsmore area

A Conditional Use Permit for 5,120 square feet of existing mixed light and 15,841 square feet of existing outdoor commercial cannabis cultivation supported by a 1,792 square foot ancillary nursery. Estimated annual water usage is 126,000 gallons and is sourced from a point of diversion and rainwater catchment. Water storage totals 197,750 gallons. Onsite processing is proposed and power is sourced from a generator.

RECOMMENDATION(S):

That the Planning Commission:

1. Adopt resolutions (Resolution 23-__) (Attachments 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 and the Addendum to the Mitigated Negative Declaration that was prepared for the Panther Rock Growers, MBC project (Attachment 3); and
 - b. Finds that the proposed projects comply with the General Plan and Zoning Ordinance; and
 - c. Approves the Panther Rock Growers Conditional Use Permit subject to the recommended conditions of approval (Attachments 1A).

DISCUSSION:

Project Location:

The project is in the Dinsmore area, on the East side of Burr Valley Road, approximately 4.5 miles

South from the intersection of Elderberry Lane and Burr Valley Road, and approximately 2.5 miles South from the intersection of Burr Valley Road and a Private Drive on the property known to be in Section 11 of Township 01 South, Range 05 East, Humboldt Base & Meridian.

Present General Plan Land Use Designation:

Residential Agriculture (RA); 2017 General Plan; Density: 20-160 acres per unit; Slope Stability: High Instability (3)

Present Zoning:

Forestry Recreation (FR); Special Building Site (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:

None

Executive Summary:

A Conditional Use Permit for 5,120 square feet of existing mixed light and 15,841 square feet of existing outdoor commercial cannabis cultivation supported by a 1,792 square foot ancillary nursery. Estimated annual water usage is 126,000 gallons and is sourced from a point of diversion and rainwater catchment. Water storage totals 197,750 gallons. Onsite processing is proposed and power is sourced from a generator.

The amount of water authorized under the water right exceeds the estimated annual irrigation needs. A rainfall capture analysis also shows that at least 50% of annual irrigation water needs can be provided by rainfall. Therefore, there is sufficient water to serve the project. Water storage represents 157% of estimated annual water usage therefore there is more than adequate water storage.

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. The project is conditioned to migrate electricity sourcing for the cannabis operation to all renewable sources by January 1, 2026, reserving generator usage for emergencies only.

The applicant must implement and erosion control plan to address observed sediment discharge. No timber conversion is associated with the project. Project conditions include the standard inadvertent discovery protocol.

Water Resources:

The estimated annual water usage of 126,00 gallons is sourced from a point of diversion and rainwater

catchment. The point of diversion is associated with State Water Resources Control Board Right to Divert and Use Water certificate H100419. This water right authorizes two different points of diversion on two different parcels, the project parcel and adjacent parcel 210-162-008. Only the point of diversion known as POD-5 on the project parcel located at coordinates 40.393492, -123.578985 will be used for cannabis irrigation. The water right limits total annual water diversion at 0.56-acre feet per year or 182,476 gallons, which exceeds the annual estimated annual water usage for cannabis irrigation. Because the water right certificate places a total diversion limit on both points of diversion combined, both points of diversion will need to have water meters and water usage logbooks kept and made available during annual inspection of the cannabis operation (**Condition of Approval A2**). Final LSAA (HUM-15255-R1) requires forbearance from April 1 to October 31 as 80% bypass. Adherence to the LSAA is a condition of approval (**Condition of Approval C16**).

The applicant provided a rainwater catchment analysis as part of the Operations Plan. This analysis created an average for low rainfall years of 47.39 inches. With a collection surface area of approximately 2,112 square feet, then approximately 62,394 gallons of rainwater can be captured in a low rainfall year. It is reasonable to conclude the captured rainfall has the capability to provide at least 50% of the estimated annual irrigation needs in a low rainfall year. In tandem with the point of diversion, sufficient water is available to serve the project. There is a groundwater well present on the property which will not be used for the cannabis project nor connected to any cannabis irrigation infrastructure (**Condition of Approval B1**). Water storage totals 197,750 gallons in multiple tanks in various locations as depicted on the Site Plan. Water storage represents 157% of estimated annual water usage therefore there is more than adequate water storage.

The project was referred to the Division of Environmental Health (DEH) which requested certification of the existing septic system. The project is conditioned requiring the use of portable toilets for cultivation activities until the septic system is permitted or certified by DEH as having capacity to serve the cannabis operation. Additionally, onsite processing is not allowed until a commercial structure is built connected to an adequate wastewater system (**Condition of Approval B2**).

Per the Operations Plan, irrigation methods include hand-watering and use of emitters. All water and nutrient applications will be performed at agronomic rates consistent with but not more than plant needs or manufacturer's specifications.

Biological Resources:

A Biological Assessment conducted on March 3, 2021, prepared by Brit O'Brien was provided. The Assessment recommends additional botanical study and nesting bird surveys for any new ground disturbing activities. As this project is for existing cultivation and existing structures, no new development is proposed. The recommendations of the biologist are incorporated in the conditions of approval if any unforeseen ground disturbing activities are necessary to implement the project (**Condition of Approval B3**). The nearest spotted owl activity center (HUM0548) is approximately 1.3 miles to the northwest. 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**).

The project record includes an August 22, 2019, letter from Mother Earth Engineering indicating the possible presence of emergent wetlands in the northeast corner of the property. The March 3, 2021, biological assessment however did not identify any wetlands. To resolve the question of whether there are wetlands in this area without further study, staff presume the presence of seasonal wetlands in the location mapped by Mother Earth Engineering. The Site Plan for the project shows cannabis related activities at least 50 feet from this area which is the minimum setback under the Streamside Management Area Ordinance. For added security, the project is conditioned to relocate the compost area designated as area 'F' on the Site Plan to an area south of the road immediately adjacent. **(Condition of Approval A3).**

The project has been conditioned to ensure supplemental lighting associated with the onsite nursery and mixed light cultivation adheres to Dark Sky Association standards including security lighting **(Condition of Approval C3)**. Permit conditions of approval also prohibit using synthetic netting **(Condition of Approval C5)**, ensure refuse is contained in wildlife-proof storage **(Condition of Approval C6)**, and prohibit use of anticoagulant rodenticides to further protect wildlife **(Condition of Approval C8)**. 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.

The project also contains a condition requiring the applicant provide documentation to the satisfaction of the Planning and Building Department and CDFW demonstrating that the work completion dates in section 3.2 of the LSAA have been updated and that the applicant is making good faith progress toward completing the scope of work in the LSAA **(Condition of Approval A5)**. This condition must be satisfied prior to resuming cultivation on the site. Additionally, all foreign materials, including water lines, shall be removed from stream channels **(Condition of Approval A6)**.

Energy

A generator is described in the project Operations Plan. Per the plan, the generators will be fully enclosed with proper containment. The project is conditioned to migrate electricity sourcing for the cannabis operation to all renewable sources by January 1, 2026, reserving generator usage for emergencies only **(Condition of Approval A9)**.

Access:

From CA Highway 36, access follows 9.6 miles of Burr Valley Road and then 1.9 miles of an unnamed road. All access roads are privately maintained. The project was referred to Public Works which recommended a road evaluation. The applicant provided a road evaluation concluded that the road segments are developed to the equivalent of a road category 4 standard. The road evaluation included an array of photographs taken at regular intervals demonstrating adequate site lines and turnout options in the areas photographed. There will be up to 9 employees at peak operation. The site plan depicts three parking spaces. The project is conditioned to update the site plan to show designated parking areas for all employees including ADA parking for processing building. **(Condition of Approval A10)**

Geologic Suitability:

The project parcel is mapped in the County GIS as high instability. The existing cultivation is in areas ranging from 15% slope or less to 15% to 30% slope. No new grading is proposed to implement the project. After the fact grading permits are required for grading that was done previously without permits (**Condition of Approval A11**).

An October 30, 2023, site visit by CDFW indicates there is sediment discharge of concern. The project is conditioned to require an interim erosion control plan be provided and implemented no later than November 30, 2023 (**Condition of Approval A4**).

Timber Conversion:

No timberland conversion is associated with this project. CalFire referral replied with requests for the standard safety measures such as dedicated water source and emergency turnarounds (see Security and Safety section below).

Security and Safety:

Per the project Operations Plan, access to the parcel is gated and locked and security cameras are used. The Site Plan depicts a 5,000 gallons tank dedicated to fire suppression as well as a Hammer Head T emergency vehicle turnaround. The project was referred to the Bridgeville Fire Protection District which did not respond. The referral to CalFire responded with standard requests for turnarounds and fire suppression water storage.

Tribal Consultation:

The project was referred to the Northwest Information Center and the Bear River Band of the Rohnerville Rancheria. While NWIC recommended a cultural resource survey, the Bear River Tribal Historic Preservation Officer requested only the inadvertent discovery protocol. Therefore, the conditions of approval include the standard inadvertent discovery protocol (**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 126 acres of cultivation. With the approval of the project the total approved permits in this Planning Watershed would be 126 permits and the total approved acres would be approximately 43.46 acres of cultivation.

Environmental Review:

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 comments, comments, or recommended approval or conditional approval. (Attachment 5)

ALTERNATIVES TO STAFF RECOMMENDATIONS:

1. The Planning Commission could elect to add or delete other 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. Operations Plan
 - C. Site Plan
2. Location Map
3. CEQA Addendum
4. Applicant's Evidence in Support of the Required Findings
 - A. Biological Assessment
 - B. Wetland Determination
 - C. Road Evaluation
 - D. Right to Diver and use Water
 - E. LSAA
5. Referral Agency Comments and Recommendations
 - A. Building Inspection Division
 - B. Division of Environmental Health
 - C. Public Works
 - D. US Army Corps of Engineers
 - E. CDFW
 - F. CalFire

Applicant

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Please contact Steven A. Santos, Senior Planner, at sasantos@co.humboldt.ca.us or 707-445-7541 for questions about the scheduled item.