

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT**

Resolution Number 23-

Record Number PLN-2022-17649

Assessor's Parcel Numbers: 204-121-005; 204-121-006; and 204-251-001

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Humboldt Reserve, LLC Conditional Use Permits.

WHEREAS, Humboldt Reserve, LLC. submitted an application and evidence in support of approving Conditional Use Permits for Record No, PLN-2022-17639. Permit requested is a Conditional Use Permit for 235,008 square feet (5.39 acres) of enclosed indoor commercial cannabis cultivation, 44,064 square feet (1.01 acres) of enclosed commercial nursery, and a 2,400 square foot distribution facility along with associated appurtenant facilities.

WHEREAS, a Mitigated Negative Declaration was prepared for the proposed Conditional Use Permits and circulated for public review pursuant to Section 15074 of the CEQA Guidelines; and

Now, THEREFORE BE IT RESOLVED, that the Planning Commission makes all the following findings:

- 1. FINDING:** **Project Description:** Conditional Use Permits for 235,008 square feet (5.39 acres) of enclosed indoor commercial cannabis cultivation, 44,064 square feet (1.01 acres) of enclosed commercial nursery, and a 2,400 square foot distribution facility. Three new commercial buildings are proposed. Building 1 will be 61,344 square feet, building 2 will be 62,208 square feet, and building 3 will be 181,440 square feet. All three building will include indoor cultivation, commercial nursery, and drying space. A total of 25,920 square feet of ancillary drying space is proposed across the three new buildings. The distribution facility will occur in a proposed expansion to an existing building. Ancillary onsite processing is proposed in an existing 4,800 square foot building and a proposed 40' x 60' building expansion. Irrigation water will be sourced from rainwater catchment and reclaimed water from dehumidifiers installed in the proposed buildings. Rainwater will supply approximately 65% of irrigation demand, and reclaimed water from dehumidifiers will supply approximately 35% of irrigation demand. Annual water usage for the entire project is estimated at 4.2 million gallons. Water storage will consist of a proposed 3.12-million-gallon catchment pond. The project will require 25 year-round employees and an additional 49 seasonal laborers during peak operations for a total of up to 74 employees. Electricity will be sourced from an eligible renewable energy program through PGE from an existing power drop from a dedicated substation with a backup generator for emergency purposes only. Including all proposed improvements, the proposed project comprises approximately 381,087

square feet (8.7 acres) on a previously developed 33-acre former mill site.

EVIDENCE: Project File: PLN-2022-17649

2. **FINDING:** **CEQA:** As required by the California Environmental Quality Act, the project was found subject to CEQA and a Mitigated Negative Declaration was prepared by the Planning and Building Department, Planning Division (Attachment 3), which evaluated the project for any adverse effects on the environment.

EVIDENCE: a) The CEQA document includes an analysis of the subject Conditional Use Permits. The Initial Study and Draft Mitigated Negative Declaration (IS/MND) was circulated from June 5, 2023 to July 6, 2023 SCH 202306009.

b) The IS/MND included five mitigation measures which have been incorporated into a Mitigation Monitoring and Reporting Plan which is adopted as part of the project.

3. **FINDING** **ENVIRONMENTAL IMPACTS FOUND NOT TO BE SIGNIFICANT- NO MITIGATION REQUIRED.** The following impacts have been found to be less than significant and mitigation is not required to reduce project related impacts: Aesthetics, Agriculture and Forestry Resources, Energy, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, Transportation, Utilities and Service Systems, and Wildfire.

EVIDENCE a) There is no evidence of an impact to any of the above reference potential impact areas based on the project as proposed at this proposed location.

b) Initial Study/Mitigated Negative Declaration circulated for public review July 27, 2022 to August 25, 2022.

4. **FINDING** **ENVIRONMENTAL IMPACTS MITIGATED TO LESS THAN SIGNIFICANT** – The Initial Study identified potentially significant impacts to Air Quality, Biological Resources, Cultural Resources, Geology and Soils, and Tribal Cultural Resources which could result from the project as originally submitted. Mitigation Measures have been required to ensure potential impacts are limited to a less than significant level.

EVIDENCE a) **Air Quality:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for air quality:

AQ-1

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, active graded areas, excavations, and unpaved access roads) shall be watered two times per day in areas of active construction.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All vehicle speeds on unpaved roads shall be limited to 15 mph, unless the unpaved road surface has been treated for dust suppression with water, rock, wood chip mulch, or other dust prevention measures.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes. Clear signage shall be provided for construction workers at all access points.
- All construction and operation equipment shall be maintained and properly tuned in accordance with the manufacturer's specifications.

- EVIDENCE** b) **Biological Resources:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for biological resources:

BIO-1 Preconstruction surveys for amphibians and reptile species shall be conducted within 14 days prior to project development or construction. The survey shall cover the entire area proposed for development and shall follow protocols for visual encounter surveys and focus along the edges of the aquatic resource buffers and refuge sites located within the site. If special-status reptiles or amphibians are determined to be present, relocation to other onsite suitable habitat shall occur in coordination with CDFW.

BIO-2 For all construction-related activities that take place within the nesting season, accepted as February 1 through August 31, a preconstruction nesting-bird survey for migratory and nesting birds shall be conducted by a qualified biologist no more than two weeks prior to construction within the Proposed Project area and a buffer zone determined by the qualified biologist, depending on the species nesting. The timing of surveys shall be determined in coordination with the CDFW. If active nests are found, a no-disturbance buffer zone shall be established, the size of which the biologist shall determine based on nest location and species. Within this buffer zone, no construction shall take place until the young have fledged or until the biologist determines that the nest is no longer active. For nesting raptors, surveys will cover a minimum of a 0.5-mile radius around the construction area. If nesting raptors are detected, the biologist shall establish buffers around nests that are sufficient to ensure that breeding is not likely to be disrupted or adversely impacted.

- c) **Cultural Resources:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following

mitigation measures for cultural resources:

CUL-1 If cultural resources are encountered during construction activities, all onsite work shall be stopped in the immediate area and within 50-foot buffer of the discovery location. The County, THPOs for the Bear River Band of the Rohnerville Rancheria and Wiyot Tribe, and Archaeologist shall be contacted immediately. No material can be removed from the site until Tribes have agreed to a disposition plan and approval has been granted by County. A qualified archaeologist shall be retained to evaluate and assess the significance of the discovery, and develop and implement an avoidance or mitigation plan, as appropriate. For discoveries known or likely to be associated with Native American heritage (prehistoric sites and select historic period sites), the Tribal Historic Preservation Officer (THPO) for the Bear River Band of the Rohnerville Rancheria and the Wiyot Tribe shall be contacted immediately to evaluate the discovery and, in consultation with the project proponent, the County, and consulting archaeologist, develop a treatment plan in any instance where significant impacts cannot be avoided. Prehistoric materials which could be encountered include obsidian and chert debitage or formal tools, grinding implements, (e.g., pestles, handstones, bowl mortars, slabs), locally darkened midden, deposits of shell, faunal remains, and human burials (see below). Historic archaeological discoveries may include nineteenth century building foundations, structural remains, or concentrations of artifacts made of glass, ceramics, metal or other materials found in buried pits, wells or privies. Work near the archaeological find(s) shall not resume until a professional archaeologist, who meets the Secretary of the Interior's Standards and Guidelines, has evaluated the materials and offered recommendation for further action.

If human remains are discovered during project construction, work shall be stopped at the discovery location, within 20 meters (66 feet), and any nearby area reasonably suspected to overlie adjacent to human remains (Public Resources Code, Section 7050.5). The Humboldt County coroner shall be contacted to determine if the cause of death must be investigated. If the coroner determines that the re-mains are of Native American origin, it is necessary to comply with state laws relating to the disposition of Native American burials, which fall within the jurisdiction of the NAHC (Public Resources Code, Section 5097). The coroner shall contact the NAHC. The descendants or most likely descendants of the deceased shall be contacted, and work shall not resume until they have made a recommendation to the landowner or the person responsible for the excavation work for means of treatment and disposition, with appropriate dignity, of the human remains and any associated grave goods, as provided in Public Resources Code, Section 5097.98. The County, THPOs for the Bear River Band of the Rohnerville Rancheria and Wiyot Tribe, and Archaeologist shall be

contacted immediately. No material can be removed from the site until Tribes have agreed to a disposition plan and approval has been granted by County.

- e) **Geology and Soils:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for geology and soils:

GEO-1. If paleontological resources are encountered during implementation of the Project, ground disturbing activities will be temporarily redirected from the vicinity of the find. A qualified paleontologist shall be retained by the developer to make an evaluation of the find. If a significant paleontological resource(s) is discovered on the property, the qualified paleontologist shall develop a plan of mitigation which shall include salvage excavation and removal of the find, removal of sediment from around the specimen (in the laboratory), research to identify and categorize the find, curation in the find a local qualified repository, and preparation of a report summarizing the find.

5. FINDING

CEQA Public Comments: One comment was received from the State Water Resources Control Board on the Initial Study and Mitigated Declaration. These comments have been considered and none of these comments change the conclusions of the Mitigated Negative Declaration.

- EVIDENCE**
- a) Comments regarding the domestic water source because of the number of employees: The project has been conditioned such that the permittee is required to either connect to the Hydesville Water District or apply for and receive a permit from the State Water Resources Control Board, Division of Drinking Water as a public water system.

FINDINGS FOR CONDITIONAL USE PERMITS

6. FINDING

The proposed development is in conformance with the County General Plan, Open Space Plan, and the Open Space Action Program.

- EVIDENCE**
- a) Indoor commercial cannabis cultivation is a compatible use under the Mixed Use (MU) land use designation because it is consistent with and does not impact immediately adjacent timber, agriculture, and industrial uses. The proposed cannabis project is consistent with the use of Open Space land for managed production of resources and is consistent with the Open Space Plan and Open Space Action Program. One of the project parcels is included in the Open Space Action Program because of the presence of a streamside management area (SMA). No development is proposed within the SMA, therefore the proposed project is consistent with the Open Space Action Program.

- b) The General Plan Circulation Element requires *Decisions to change or expand the land use of a particular area shall include an analysis of the impacts to existing and proposed transportation facilities and services so as to minimize or avoid significant operational, environmental, economic, and health-related consequences.* The project does not change or expand the allowable land uses in this area, as the project site is a former mill site.

The project was referred to CalTrans which responded with recommendations to use the west driveway as the primary access and reserve the east driveway for emergency access only. CalTrans also recommends that improvements be made to the commercial road approaches. The project is conditioned accordingly.

- c) The proposed project is consistent with the Conservation and Open Space Element - Biological Resources through the following project design elements:

All project development will meet or exceed setbacks for streamside management areas and wetlands. A review of Essential Habitat Connections identified in the California Essential Habitat Connectivity Project indicates no significant wildlife movement corridors were identified within the Project area.

Naiad Biological Consulting conducted a Biological Reconnaissance and Project Feasibility Assessment Report and associated Botanical Survey consisting of literature reviews and field observations and studies to identify potential sensitive biological resources that may occur within the Project area. Biological findings are summarized below.

- **Special Status Species:** Two amphibian, one reptile, and four bird species were documented as having occurrences within 2 miles of the proposed project site. Two mitigation measures consisting of preconstruction surveys will be adopted to mitigate any potential impact to migrating wildlife or nesting areas.
- **Designated Critical Habitat:** The project areas do not contain designated critical habitat for any listed species.
- **Sensitive Natural Communities:** No sensitive natural communities were identified within the project area.

The county referred the project to the California Department of Fish and Wildlife and no comments were received. The initial study and mitigated negative declaration were sent separately to CDFW however no comments were submitted.

- d) The Goals and policies of the Conservation and Open Space Cultural Resources have been complied with based on the referral to Northwest Information Center, Bear River Band, and Wiyot tribe. The applicant

submitted a Cultural Resource Investigation prepared by William Rich and Associates evaluating the subject property. The Cultural Resources Investigation Report identified no historical resources as defined by Section 15064.5 within the Proposed Project area or property, nor were there any previous records of historical resources located on the subject property. The Cultural Resource Investigation recommended Inadvertent Discovery Protocol, which has been included as a recommended condition of approval. As required by AB 52, the County of Humboldt sent requests on March 21, 2023, for formal consultation to the Bear River Band of the Rohnerville Rancheria, Blue Lake Rancheria, Big Lagoon Rancheria, Cher-Ae Heights Indian Community of the Trinidad Rancheria, Hoopa Valley Tribe, Karuk Tribe, Round Valley Reservation/ Covelo Indian Community, Shasta Indian Nation, Shasta Nation, Tsnungwe Council, Wiyot Tribe, and Yurok Tribe. No consultation was requested in response to AB52 referral outreach.

- e) The project is consistent with the Conservation and Open Space Scenic Resources policies as the only applicable policy is related to restricting light and glare. The CCLUO requires that mixed light cultivation comply with International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1 and be designed to regulate light spillage onto neighboring properties resulting from backlight, uplight, or glare. The project is required to follow International Dark Sky Association Standards that exceed the requirements of Scenic Resources Standard SR-S4, Light and Glare, that lighting be fully shielded, and designed and installed to minimize off-site lighting and direct light within the property boundaries.
- f) The project is consistent with the Water Resources Element through the following project design elements: The project does not utilize diversion from a surface water source, as water will come from rainwater catchment and recapture from dehumidifiers. The pond will have overflow features constructed consistent with engineering professional standards by a qualified licensed engineer in accordance with Humboldt County Code and SWRCB regulations. Irrigation water will be applied at agronomic rates and detected leaks in the irrigation systems shall be fixed immediately to reduce runoff. All proposed structures and cultivation areas will be located outside of Streamside Management Area buffer zones. Existing stormwater infrastructure includes water conveyance ditches, ditch relief culverts, and a constructed stormwater retention area. The site is a historic mill site and was required to create a SWPPP during preparation of the site. The proposed project would not interfere with stormwater measures in the SWPPP, nor would interfere with any existing stormwater infrastructure located onsite. Site drainage will also be addressing in the forthcoming Site Management Plan (SMP) and enrollment in the State Water Resources Board General Order for cannabis. The SMP will include erosion and sediment control best practicable treatment controls (BPTCs) designed to prevent, contain, and reduce sources of sediment. BPTC prescriptions may include rocking roads,

maintaining rolling dips/water bars, and unplugging ditch relief culverts.

- g) The project complies with the Noise Element as there are no sensitive receptors which would be adversely affected by the project. Project parcels are next to a State Highway, and an existing mill operation, and agriculture and timberlands.

Project activities are not expected to generate significant noise levels that will exceed the Humboldt County General Plan Noise Element standards. Project activities will occur within enclosed buildings. Project operations are subject to the ambient noise performance standards of the CCLUO.

- h) The project complies with the Safety Element of the General Plan as follows:

According to the Humboldt County Geographic Information System the project location is not within the 100-year floodplain of any surface water features. The proposed project site is located within an area of low instability, and no mapped historic landslides are present in the project area.

Referral response from the Fortuna Fire Protection District requested visible addressing, a minimum dedicated fire suppression source, and access and turnaround meet specifications. The project is conditioned requiring the operator to coordinate with the Fire District and obtain approval of fire protection infrastructure and facilities prior to operating.

7. FINDING

The proposed development is consistent with the purposes of the existing MH and Q zone in which the site is located.

EVIDENCE

- a) Per HCC 314-3.3 similar and compatible uses are allowed in the MH zone with a Conditional Use Permit. The CCLUO identifies indoor commercial cannabis cultivation as an eligible and compatible use.
- b) The proposed project is consistent and in conformance with the purposes described in Section 3 of ordinance 1771 for the Q zone which seeks to reserve the property for industrial uses; protect neighboring property from inappropriate industrial development; and provide public and technical review of projects as may be proposed for the property. Because the project complies with the adaptive reuse of industrial sites performance standards of the CCLUO; meets the setbacks of the CCLUO and the MH zone; and the initial study and mitigated negative declaration provides for public and technical review, the purpose of the Q zone is met. Section 4 of the ordinance places special restrictions on the property but excepts, as a principal permitted use, general agriculture. The cultivation of cannabis, even at commercial scale, is a general agriculture product. The cannabis activities are being proposed within buildings that can be used for other industrial purposes if the cannabis activities are no longer conducted on this site. The cannabis activities will be contained in an enclosed structure so

there will not be an adverse impact upon the surrounding area. Based upon these factors it is appropriate to find that the proposed cannabis activities are consistent with the Q Zone and approve the Conditional Use Permits.

- c) The location and height of all project elements meet the setback and building height requirements for the MH zone.
- d) Per DS-12-24 the configuration of APNs 204-121-005 and 204-251-001 combined comprise one legal parcel as described in Certificate of Subdivision Compliance 2013-007282. APN 204-121-006 has not changed in configuration since the creation of the county's assessment roles which predate the adoption of county and state subdivision regulations.

8. FINDING

The proposed development is consistent with the requirements of the CCLUO Provisions of the Zoning Ordinance.

EVIDENCE

- a) The CCLUO allows commercial cannabis cultivation to be permitted in areas zoned MH (HCC 314-55.4.6.2).
- b) The applicant has supplied a report prepared by a licensed engineer evaluating the road network and relevant segments of road that includes substantial evidence to support finding that standards for the protection of public health and safety, including fire safe road access, capacity to support anticipated traffic volumes, water quality objectives, and protection of habitat can be met.
- c) The project will obtain water from rainwater catchment and dehumidifier recapture, an eligible water source.
- d) The location of the cultivation complies with all setbacks and performance standards of the CCCLUO.
- e) All the applicable performance standards are included as conditions of project approval. They are required to be met throughout the timeframe of the permit.
- f) The project as proposed complies with applicable siting criteria. No timberland conversion is proposed, and the project will not be in areas identified as having prime agricultural soils.
- g) The project site is in the Van Duzen Planning Watershed, which under Resolution 18-43 is limited to 425 permits and 146 acres of cultivation. With the approval of this project the total approved permits for cultivation in this Planning Watershed would be 128 permits and the total approved acres would be 47.96 acres of cultivation.
- h) HCC 314-55.4.9 allows cultivation over an acre with a Conditional Use

Permit.

- i) The project complies with the performance standards for adaptive reuse of industrial sites per HCC 314-55.4.12.12 because the reuse of the existing building and the construction of new buildings as designed will not preclude future industrial use of the property if the cannabis operation discontinues.
- j) Phase I and Phase II environmental site assessments were conducted in accordance with HCC 314-55.4.12.1.11. The Phase I identified three recognized environmental conditions which were further investigated through Phase II testing. Phase II testing found small traces of dioxins near the previous conical burners but at concentrations significantly less than the Department of Toxic Substances Control screening level thresholds for commercial and industrial land uses.

9. FINDING

The operation of a commercial cannabis cultivation operation and the conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

EVIDENCE

- a) The site is located on Highway 36, a publicly maintained highway which meets or exceeds Roadway Category 4 Standards.
- b) The proposal to operate a commercial cannabis cultivation operation is similar to other agricultural uses in the immediate area and compatible with adjacent industrial uses.
- c) The location of the operation is more than 600 feet from any school, school bus stop, or church.
- d) Irrigation water will not be sourced from surface water or from groundwater.

10. FINDING

The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

EVIDENCE

The parcel is zoned and planned industrial and was not included in the housing inventory of Humboldt County's 2019 Housing Element and is zoned heavy industrial.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Planning Commission does hereby:

- Adopts the Mitigated Negative Declaration for the Humboldt Reserve, LLC Conditional Use Permits; and
- Adopts the Mitigation Monitoring and Reporting Program for the Humboldt Reserve, LLC Conditional Use Permits; and
- Adopt the findings set forth in this resolution; and
- Conditionally approves the Conditional Use Permits for Humboldt Reserve LLC based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference; and

Adopted after review and consideration of all the evidence on **August 3, 2023**.

The motion was made by COMMISSIONER _____ and second by COMMISSIONER _____ and the following ROLL CALL vote:

AYES:	COMMISSIONERS:
NOES:	COMMISSIONERS:
ABSENT:	COMMISSIONERS:
ABSTAIN:	COMMISSIONERS:
DECISION:	

I, John Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.

 John Ford, Director
 Planning and Building Department