

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

**Resolution Number 23-**

**Record Number PLN-13141-CUP**

**Assessor's Parcel Numbers: 524-201-030**

**Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Enchanted Springs Farm, LLC, Conditional Use Permit & Special Permit.**

**WHEREAS, Enchanted Springs Farm, LLC,** submitted an application and evidence in support of approving a Conditional Use Permit for the continued operation of an existing 4,292 square foot (sf) of outdoor cannabis cultivation with ancillary propagation and processing; and a Special Permit for a reduced setback to Public Lands; and

**WHEREAS,** the County Planning Division, the lead agency, prepared an Addendum to the Final Mitigated Negative Declaration (MND) prepared for the Commercial Medical Land Use Ordinance (CMMLUO) adopted by the Humboldt County Board of Supervisors on January 26, 2016. The proposed project does not present substantial changes that would require major revisions to the previous Mitigated Negative Declaration. No new information of substantial importance that was not known and could not be known at the time was presented as described by §15162(c) of CEQA Guidelines; and

**WHEREAS,** the Humboldt County Planning Commission held a duly-noticed public hearing on March 2, 2023, and reviewed, considered, and discussed the application for a Conditional Use Permit and Special Permit and reviewed and considered all evidence and testimony presented at the hearing.

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

**FINDING:**                    **Project Description:** The application is a Conditional Use Permit for 4,292 square feet (sf) of pre-existing outdoor cannabis cultivation with 420 sf of ancillary propagation area. Light-deprivation techniques will be utilized without the use of supplemental lights and two harvests are anticipated annually. Water source is from the Willow Creek Community Services District. Annual water usage is estimated at 75,392 gallons per year (16 gal/sf/yr). Total water storage on-site will be 9,900 gallons. The site will be owner-operated with no employees, and processing will occur within the residence. Power source is PGE. The project also includes the request for a Special Permit to reduce the 600-foot setback to Public Lands, the Six Rivers National Forest.

**EVIDENCE:**                    Project File: PLN-13141-CUP

**2. FINDING:**

**CEQA.** The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Planning Commission has considered the Mitigated Negative Declaration (MND) prepared for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) adopted by the Humboldt County Board of Supervisors on January 26, 2016 and the Addendum prepared for this project.

**EVIDENCE:**

- a) MND and Addendum Prepared for the proposed project.
- b) The proposed project does not present substantial changes that would require major revisions to the previous MND. No new information of substantial importance that was not known and could not be known at the time was presented as described by §15162(c) of CEQA Guidelines.
- c) Water source comes from the Willow Creek Community Services District (WCCSD), and the applicant has a Will-Serve letter from the WCCSD allowing the continued use of up to 536,000 gallons of water per year for domestic and agricultural uses.
- d) The applicant has enrolled in the State Water Resources Control Board's (SWRCB) General Order for Water Quality No. WQ 2019-001-DWQ. A Notice of Applicability letter was received by the applicant, dated September 6, 2029, showing proof of enrollment under WDID 1\_12CC416155. The applicant has obtained a Site Management Plan (SMP) prepared by Natural Resource Management, dated July 23, 2020. The SMP addresses site conditions and corrective measures required for the site to meet the standard conditions of the General Order. The applicant shall adhere to all of the corrective actions and ongoing monitoring and BPTC measures listed in the SMP.
- e) The Cultivation & Operations Plan states that there are no culverts or stream crossings on the site. The applicant is not required to obtain a Lake or Streambed Alteration (LSA) Agreement with the California Department of Fish & Wildlife (CDFW) if there are no culverts or stream crossings on-site that require remediation.
- f) There are no mapped biological resources shown on the subject parcel in the CNDDDB database in Humboldt County Web GIS, and the nearest known activity center for Northern Spotted Owls is approximately 1.3 miles to the proposed project site. As the project is for pre-existing cultivation, and no vegetation removal is proposed as part of the project, no Biological Assessment was required. As the project will consist of outdoor cultivation, and power is provided by PG&E, no noise pollution is anticipated as a result of the proposed project. The applicant is conditioned to adhere to International Dark Sky Standards for security lighting and the propagation greenhouse. The project was referred to the California Department of Fish & Wildlife (CDFW) on July 17,

2017, and comments were received on January 15, 2020 and no comments have been received.

- g) The parcel is zoned Agriculture General (AG), and no apparent timber conversion has occurred on the subject parcel. The project was referred to CalFire on June 16, 2021, and comments were received on July 7, 2021. Comments from CalFire stated that the Department had no comments at that time. No timber conversion has occurred in associated to cannabis activities, and none is proposed as part of this project.
- h) The proposed project is located within the mapped ancestral aboriginal territories for the Hoopa and Tsnungwe tribes. The project was referred to the Hoopa and Tsnungwe tribes, and the Northwest Information Center (NWIC) on January 15, 2020. The NWIC commented on the project on January 28, 2020, recommending that the lead agency contact the local Native American tribes regarding traditional, cultural, and religious heritage values. A comment was received from the Tsnungwe tribe on June 16, 2021, stating that they had no objection to the project. No Cultural Resource Investigation was required for the project. The project is conditioned to adhere to inadvertent discovery protocols.
- i) The project is accessed off of Christian School Road, which is a non-county maintained road located off of State Hwy 299. The project was referred to the Department of Public Works on January 15, 2020. Comments from Public Works included that the project is accessed by a non-county maintained road off of Hwy 299, and recommended that the application be sent to Caltrans for review. The project was referred to Caltrans on January 15, 2020, and no comments were received. The project is the only cannabis project that is accessed by Christian School Road, and no road maintenance association is required for the project. As the project is owner-operated and there are no employees, no increase in traffic is anticipated by the approval of this application.

### **FINDINGS FOR CONDITIONAL USE PERMIT & SPECIAL PERMIT**

#### **3. FINDING**

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

#### **EVIDENCE**

- a) The proposed project is not planned or zoned as open space, does not have a combining zone that would be considered open space.
- b) The project area is located within 600 feet of Public Lands, the Six Rivers National Forest (SRNF). According to a Property Survey that was prepared by Points West Surveying Co., dated August 2017, the nearest cultivation area to the SRNF lands is 45 feet to the shared parcel boundary. The applicant is requesting a Special Permit to approve a

setback reduction from the SRNF parcel boundary to approximately 45 feet to the nearest cultivation area. The project was referred to the SRNF on January 26, 2023, and no comments were received.

The adjacent public land is subject to the Land and Resource Management Plan - Six Rivers National Forest 1995 (L&RMP). This property is located within the mapped Essential Habitat Connection corridor per the California Essential Habitat Connectivity Project that has been adopted by the State of California to help guide statewide transportation and land use planning projects. However, the setback reduction would not impact the ability of these public lands to continue to function for habitat connectivity as the property is located in a residential neighborhood, and approval of this project would not change the character of the surrounding area. The project is consistent with the L&RMP because the cultivation activities will minimize impacts to biological resources and wildlife, as no lights or generators are a part of the proposed project. The parcel is connected to PG&E grid power, and the project will source water from the Willow Creek Community Services District. The project is consistent with recreational use on public lands as the proposed project is not located near developed campgrounds, trails, or other related facilities.

- c) The project is located within the CDFW's Essential Habitat Connection, and is requesting a Special Permit to reduce the 600 foot setback to SRNF. The project is located in a residential neighborhood where three (3) approved cannabis permits exist, and the site is located approximately 890 feet to State Hwy 299. The project will not be utilizing generators, or employees, and receives water from the Willow Creek Community Services District. No significant impacts to wildlife are anticipated as part of this project.

**4. FINDING**

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

**EVIDENCE**

- a) The Agriculture General or AG Zone is intended to be applied to areas of the County in which general agriculture uses is a desirable use.
- b) All general agricultural uses are principally permitted in the AG zone.
- c) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 43,560 square feet of existing outdoor cannabis and up to 22,000 sq. ft. of existing mixed-light cannabis on a parcel zoned AG over 1 acres subject to approval of a Conditional Use Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for 4,292 sq. ft. of outdoor cultivation on a 2.96-acre parcel is consistent with this and with the cultivation area verification prepared by the County.

**5. FINDING**

The proposed development is consistent with the requirements of the

CMMLUO Provisions of the Zoning Ordinance.

- EVIDENCE**
- a) The CMMLUO allows existing cannabis cultivation to be permitted in areas zoned AG (HCC 314-55.4.8.2.2).
  - b) The CMMLUO allows up to 5,000 square feet of cultivation to be permitted on parcels zoned AG between 1 and 5 acres with a Use Permit (HCC 314-55.4.8.2.1.3).
  - c) On eligible parcels under 5 acres in size, the cultivation area must be set back at least 300 feet from existing residences on adjoining parcels (HCC 314-55.4.8.2.1.4). There are two (2) residences on adjoining parcels that are within 300 feet of the nearest cultivation area. The applicant has obtained a waiver for the 300-foot setback from these two (2) neighbors.
  - d) The subject parcel was created by Parcel Map 2882 (lot 3) recorded in Book 26 of Parcel Maps page 54.
  - e) Water source comes from the Willow Creek Community Services District (WCCSD), and the applicant has a Will-Serve letter from the WCCSD allowing the continued use of up to 536,000 gallons of water per year for domestic and agricultural uses.
  - f) The applicant has enrolled in the State Water Resources Control Board's (SWRCB) General Order for Water Quality No. WQ 2019-001-DWQ. A Notice of Applicability letter was received by the applicant, dated September 6, 2029, showing proof of enrollment under WDID 1\_12CC416155. The applicant has obtained a Site Management Plan (SMP) prepared by Natural Resource Management, dated July 23, 2020. The SMP addresses site conditions and corrective measures required for the site to meet the standard conditions of the General Order. The applicant shall adhere to all of the corrective actions and ongoing monitoring and BPTC measures listed in the SMP.
  - g) The Cultivation & Operations Plan states that there are no culverts or stream crossings on the site. The applicant is not required to obtain a Lake or Streambed Alteration (LSA) Agreement with the California Department of Fish & Wildlife (CDFW) if there are no culverts or stream crossings on-site that require remediation.
  - h) The location of the cultivation complies with setbacks required in Section 314-55.4.11.d. It is more than 30 feet from any property line, and more than 600 feet from any school, school bus stop, church or other place of religious worship, or Tribal Cultural Resource.
  - i) The project area is located within 600 feet of Public Lands, the Six Rivers National Forest (SRNF). According to a Property Survey that was prepared by Points West Surveying Co., dated August 2017, the

nearest cultivation area to the SRNF lands is 45 feet to the shared parcel boundary. The applicant is requesting a Special Permit to approve a setback reduction from the SRNF parcel boundary to approximately 45 feet to the nearest cultivation area. The project was referred to the SRNF on January 26, 2023, and no comments were received.

The adjacent public land is subject to the Land and Resource Management Plan - Six Rivers National Forest 1995 (L&RMP). This property is located within the mapped Essential Habitat Connection corridor per the California Essential Habitat Connectivity Project that has been adopted by the State of California to help guide statewide transportation and land use planning projects. However, the setback reduction would not impact the ability of these public lands to continue to function for habitat connectivity as the property is located in a residential neighborhood, and approval of this project would not change the character of the surrounding area. The project is consistent with the L&RMP because the cultivation activities will minimize impacts to biological resources and wildlife, as no lights or generators are a part of the proposed project. The parcel is connected to PG&E grid power, and the project will source water from the Willow Creek Community Services District. The project is consistent with recreational use on public lands as the proposed project is not located near developed campgrounds, trails, or other related facilities.

- j) The project is accessed off of Christian School Road, which is a non-county maintained road located off of State Hwy 299. The project was referred to the Department of Public Works on January 15, 2020. Comments from Public Works included that the project is accessed by a non-county maintained road off of Hwy 299, and recommended that the application be sent to Caltrans for review. The project was referred to Caltrans on January 15, 2020, and no comments were received. The project is the only cannabis project that is accessed by Christian School Road, and no road maintenance association is required for the project. As the project is owner-operated and there are no employees, no increase in traffic is anticipated by the approval of this application.

## 6. FINDING

The cultivation of 4,292 square feet of cannabis cultivation 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 in a rural part of the County in a residential neighborhood where three (3) approved cannabis permits exist, and the site is located approximately 890 feet to State Hwy 299. Approving cultivation on this site and the other sites which have been approved will not change the character of the area.
- b) Water source comes from the Willow Creek Community Services

District (WCCSD), and the applicant has a Will-Serve letter from the WCCSD allowing the continued use of up to 536,000 gallons of water per year for domestic and agricultural uses.

- c) The project is located within an area designated to have a High Fire Hazard Severity, and is shown to be within the Willow Creek Volunteer Fire District. The applicant is connected to the Willow Creek Community Services District, and no water storage is required for fire suppression.
- d) The project is accessed off of Christian School Road, which is a non-county maintained road located off of State Hwy 299. The project was referred to the Department of Public Works on January 15, 2020. Comments from Public Works included that the project is accessed by a non-county maintained road off of Hwy 299, and recommended that the application be sent to Caltrans for review. The project was referred to Caltrans on January 15, 2020, and no comments were received. The project is the only cannabis project that is accessed by Christian School Road, and no road maintenance association is required for the project. As the project is owner-operated and there are no employees, no increase in traffic is anticipated by the approval of this application.

**7. 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**

- a) The parcel was not included in the housing inventory of Humboldt County's 2019 Housing Element but does have the potential to support one housing unit. The approval of cannabis cultivation on this parcel will not conflict with the ability for a residence to be constructed on this parcel.

**8. FINDING**

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.

**EVIDENCE**

- a) The project site is located in the South Fork Trinity Planning Watershed, which under Resolution 18-43 is limited to 169 permits and 58 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 60 cultivation permits and the total approved acres would be 25.9 acres of cultivation.

**DECISION**

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

- Adopt the findings set forth in this resolution; and
- Conditionally approves the Conditional Use Permit & Special Permit for Enchanted Springs Farm, 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 **March 2, 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.

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John Ford, Director  
Planning and Building Department