

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

Resolution Number 23-

**Record Number: PLN-2020-16866-MOD01
Assessor Parcel Number: 216-082-002-000**

Makes the required findings for certifying compliance with the California Environmental Quality Act and conditionally approving Peaksview, Inc., Modification to a Special Permit request.

WHEREAS, Peaksview, Inc., submitted an application and evidence in support of approving a Modification to Special Permit Record No. PLN-2020-16866 for 43,560 square feet of new and existing mixed light commercial cannabis cultivation. The Modification proposes to relocate the cultivation area to a different location within the parcel.

WHEREAS, the County as the lead agency, prepared an Addendum to the Environmental Impact Report (EIR) prepared for the Commercial Cannabis Land Use Ordinance (CCLUO) adopted by the Humboldt County Board of Supervisors on May 8, 2018. The proposed project does not present substantial changes that would require major revisions to the EIR. 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 **July 6, 2023**, and reviewed, considered, and discussed the application for a Modification to a 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:

1. FINDING:

Project Description: Peaksview, Inc. seeks a Modification to the approved Special Permit (SP) PLN-2020-16866, to relocate the cultivation area on APN 216-082-002-0002 to an existing natural flat area. The approved SP and ZCC allows operation of up to 43,560 square feet of new and existing mixed-light cannabis cultivation on two contiguous parcels (APN 216-082-002 and APN 216-082-006-200-000) with ancillary propagation facilities. Cultivation takes place in one cultivation area consisting of four mixed-light greenhouses. The project further proposes relocation of the 9,600-square-foot wholesale nursery from APN 216-082-002-000 to APN 216-082-006-000 and repurposing the 4,440 square-foot immature plant propagation nursery and 8,640 square-foot mixed-light greenhouse on APN 216-082-002-000 for immature plant propagation or wholesale nursery activities. A 1-million-gallon rainwater catchment pond is located in the southeast corner of APN 216-082-006-000. Additional proposed water storage consists of ten (10) 5,000-gallon rainwater catchment storage tanks adjacent to the cultivation areas resulting in a total available water storage of 1.05 million gallons. Estimated annual water usage is approximately 600,000 gallons (13.9 gal/SF). Processing, including drying, curing and trimming, occurs onsite in an existing barn on APN 216-082-006-000. Post-processing activities would occur in a proposed 2,500 SF commercial building on APN 216-082-006-000. Up to 12 employees may be utilized during peak

operations. PG&E improvements are proposed to move to grid power.

EVIDENCE: Project File: PLN-2020-16866-MOD01; approved project PLN-2020-16866

2. FINDING: **CEQA:** The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Planning Commission has considered the Environmental Impact Report prepared for the Commercial Cannabis Land Use Ordinance (CCLUO) adopted by the Humboldt County Board of Supervisors on May 8, 2018 and the Addendum prepared for this project.

EVIDENCE:

- a) Addendum prepared for the proposed project.
- b) The proposed project does not present substantial changes that would require major revisions to the previous EIR. 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) The applicant submitted a *Biological Assessment* for the proposed relocation areas, prepared by Kyle S. Wear, Biological Consultant, April 4, 2022. The proposed relocation areas are grassland dominated (90% or more) by a non-native species, Harding grass (*Phalaris aquatica*). A *Nesting Bird & Pre-construction Survey* was conducted July 5, 2022 and a *Botanical Survey* was conducted July 5, 2022 by Leopard Wildlife Associates.

No special status plants were observed on the relocation areas. The subject parcels do include habitat for several special status plants, of which three taxa are associated with grasslands like the relocation areas, however, the heavy infestation of Harding grass, dry conditions, absence of any special status species, and the lack of more mesic grasslands. The criterion for a grassland to be considered a special status grassland was not met due to the high infestation of Harding grass, even with a <1% coverage of California oatgrass (*Danthonia californica*). Special status wildlife was assessed and no mature forests, snags, caves, waterbodies, riparian vegetation, or other habitat likely to provide nesting or foraging habitat for most sensitive wildlife species withing or near the relocation areas. There is, however, potential foraging habitat for raptors such as golden eagle (*Aquila chysatos*) and Cooper's hawk (*Accipter cfooperii*). With regard to aquatic resources, there were no indicators of wetland such as standing water, saturated soil, or hydrophytic vegetation like stands of sedges or rushes within or near the relocation areas. The relocation sites appeared to be outside the streamside setbacks. Overall, the assessment cultivation relocation on the proposed relocation areas will impact the invasive Harding grass-dominant grassland. According to the assessment,

there is a less than significant risk of impacts to sensitive biological resources. Further, the assessment postulated the project had the potential to be environmentally beneficial in that it would allow access to PG&E power and eliminate the use of generators.

The Nesting Bird & Pre-construction Survey was conducted on July 3, 2022. The objective of the survey was to search for active nests and or avian breeding behavior in the project area. Denning badgers were also surveyed for. No nesting birds or badger dens were observed in association with the project area. However, heavy ground disturbance indicative of feral pigs was observed, and in addition to one boar, turkey vulture, California Quail, Savannah Sparrow, Barn Swallow, Common Raven, and Retail Hawk were also observed in association with the project area.

No Special status were encountered in the project area for the Botanical Study. California oatgrass (*Danthonia californica*) was recorded along the road system but was restricted to a small area and is well below the minimum of 10% required to meet the membership rules for Idaho fescue - California oatgrass grassland (*Festuca idahoensis* - *Danthonia californica* Herbaceous Alliance). Although the cultivation areas are dominated by non-native vegetation, no plants with Cal-IPC ratings of High were observed. The survey findings postulated that there would not be an impact to special status plants of natural communities and offered no recommendations.

- d) The project is located in the Bear River band and Sinkyone Aboriginal Ancestral Territories. The project was referred to the Northwest Information Center (NWIC), Bear River Band Tribal Historic Preservation Officer and the Sinkyone Intertribal Wilderness Council on May 4, 2023. A Cultural Resource Investigation Report was prepared in November 2018 by Archaeological Research and Supply Company for the previously approved project which also included the proposed relocation areas (On file and confidential). For the proposed modification to the approved project, the THPO recommended that inadvertent discovery protocol be a condition of project approval. Ongoing conditions of approval are incorporated regarding compliance with the recommendations of the Cultural Inventory and the Inadvertent Discoveries Protocol to protect cultural resources
- e) Road Evaluation Report for the approved Special Permit. prepared by DNT Engineering & Consulting, received 11/14/19. Public works provided comment on the project specifying the following:
- Advisory that County maintained roads may generate dust and other impacts to farms(s) and that the applicant shall be responsible for protecting their farms.
 - 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.
- All driveway and private road intersections onto the County road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance).
 - Applicant must apply for and obtain an encroachment permit from the Department of Public Works prior to commencement of any work in the County maintained right of way. This also includes installing or replacing intersection culverts; minimum size is typically 18 inches.
 - 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 (or break in slope) where it intersects the County road.

FINDINGS FOR SPECIAL PERMIT MODIFICATION

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

EVIDENCE

General agriculture is a use type permitted in the Agriculture Grazing (AG) land use designation. The proposed cannabis cultivation, an agricultural product, is within land planned and zoned for agricultural purposes, consistent with the use of Open Space land for managed production of resources. The use of an agricultural parcel for commercial agriculture is consistent with the Open Space Plan and Open Space Action Program. Therefore, the project is consistent with and complimentary to the Open Space Plan and its Open Space Action Program.

4. FINDING The proposed development is consistent with the purposes of the existing Agricultural Exclusive (AE) zone in which the site is located.

EVIDENCE

- a) Humboldt County Code section 314-55.4.6 allows cultivation of up to 43,560 sq. ft. of Commercial Cannabis Cultivation Area with a Special Permit on a parcel over ten acres. As set forth in the following subsections, Pre-Existing Cultivation Sites that meet all other Eligibility and Siting Criteria and Performance Standards, may be permitted within AE, AG, RA, FR, FP, TPZ, and U zoning districts, where accompanied by a Resource Production, General Plan land use designation or Residential land use designation requiring parcel sizes on more than 5 acres. The application is a Modification to Special Permit Record No. PLN-2020-16739 for 43,560 square feet mixed-light cannabis cultivation on a 222-acre parcel.

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

EVIDENCE

- a) The project will obtain water from a non-diversionary water source. The proposed Modification will source water for irrigation from a 1-

million-gallon rain catchment pond.

- b) Road Evaluation Report for the approved Special Permit, prepared by DNT Engineering & Consulting, received 11/14/19. Public works provided comments (see 2e above).
- c) The slope of the land where commercial cannabis will be cultivated is less than 15%.
- d) This Modification will not result in the net conversion of timberland. The modification will result in the restoration of oak woodland that was converted without authorization.
- e) The location of the cultivation and associated structures/materials with a nexus to the commercial cannabis cultivation comply with all setbacks and performance standards of the CCLUO.

6. FINDING

EVIDENCE Modification to the approved Special Permit (SP) PLN-2020-16866, to relocate the cultivation area on APN 216-082-002-0002 to an existing natural flat area. The approved SP allows operation of up to 43,560 square feet of new and existing mixed-light cannabis cultivation on two contiguous parcels (APN 216-082-002 and APN 216-082-006-200-000) with ancillary propagation facilities. Cultivation takes place in one cultivation area consisting of four mixed-light greenhouses. No expansion of the permitted cultivation footprint is proposed 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 where the typical parcel size is over 100 acres and many of the land holdings are very large. The proposed cannabis will not be in a location where there is an established neighborhood or other sensitive receptor such as a school, church, park or other use which may be sensitive to cannabis cultivation. Approving cultivation on this site and the other sites which have been approved or are in the application process will not change the character of the area due to the large parcel sized in the area.
- b) The commercial cannabis irrigation water source is a 1-million-gallon rainwater catchment pond. No additional water usage is proposed for the Modification.
- c) Provisions have been made in the applicant's Sime Management Plan to protect water quality and thus runoff to adjacent property and infiltration of water to groundwater resources will not be affected.

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

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

The project site is located in the South Fork Eel Planning watershed, which under Resolution 18-43 is limited to 730 permits and 251 acres. Approval of this modification will not change the approved number or permits or acres, which is currently at approximately 305 permits and 92 acres.

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 Peakview, Inc. subject to the conditions of approval attached hereto as Attachment 1.

Adopted after review and consideration of all the evidence on **July 6, 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