

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

Resolution Number: 23-

Record Number: PLN-11291-CUP

Assessor's Parcel Number: 522-021-009-000

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Emerald Mountain Coast LLC Conditional Use Permit.

WHEREAS, Emerald Mountain Coast, LLC, submitted an application and evidence in support of approving a Conditional Use Permit for 18,050 square feet (SF) of existing mixed light cannabis cultivation in greenhouses and 1,805 SF of ancillary propagation, with irrigation water sourced from a well; and

WHEREAS, the County Planning Division, the lead agency, prepared an Addendum to the Final 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. 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 November 2, 2023 and reviewed, considered, and discussed the application for the 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:

1. FINDING:

A Conditional Use Permit for 18,050 square feet of existing mixed-light cannabis cultivation. The proposed project includes the restoration of a historic cultivation area. The applicant proposes nursery greenhouse of up to 1805 square feet to support on-site operations. The applicant estimates 180,500 gallons of water is required to meet annual needs. Water for irrigation is sourced from a well; rainwater catchment is proposed. Water is stored in 15 existing hard sided water tanks, with a storage capacity of 55,300 gallons. The project proposes adding a 500,000-gallon rain catchment pond. Drying and processing will occur on-site within the three proposed and existing barns. Electricity Power will be provided by a two (2) WhisperWatt 25 (Model DCA25USI4CAN), and two Honda 3000 generators on site. There will be up to 4 employees during the cultivation season and up to 12 during processing periods. The application also includes a restoration effort on a .67-acre area where tree cutting occurred. The project proposes adding two agriculturally exempt barns for drying and processing. On-site housing is proposed in the form of a permitted four-bedroom residence. There is a septic system proposed near the 2-story barn and processing building for the bedroom and processing barn. Portable toilets and handwashing stations will be provided until an ADA bathroom can be constructed.

EVIDENCE: a) Project File: PLN-11291-CUP

2. FINDING:

CEQA. The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Planning Commission has considered the adopted 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 has considered the Addendum to the MND that was prepared for the Emerald Mountain Coast, LLC. 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 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) A Water Resources Protection Plan was prepared by Timberland Resource Consultants in 2016. The subject property contains two class three watercourses. One of the Class III watercourses is a tributary to Pine Creek. The project has been designed and conditioned such that surface water resources will not be impacted by water use for cannabis cultivation.
- d) CDFW issued a Final Lake and Streambed Alteration Agreement (1600-2019-0109-R1) for the restoration of wetlands and a stream that were impacted by unpermitted cannabis cultivation. The work was completed however a slash pile was placed in the Streamside Management Area. The project has been conditioned upon removal of the slash pile.
- e) A Biological Assessment was prepared for the project and while there is the potential for some sensitive and protected species to be present onsite, the Biological Assessment concluded that there was a less than significant impact on threatened or endangered species. The proposed project is to continue use of existing developed sites and the potential indirect impacts are mitigated through implementation of best management practices, the SMP required by the State Water Resources Control Board, and LSAA with CDFW. There are no mapped sensitive species onsite; however, the nearest Marbled Murrelet habitat is approximately 1.7 miles to the northwest. The project is located approximately 1.3 miles to the nearest known Northern Spotted Owl (NSO) activity center. There was a positive observation of a Northern Spotted Owl .8 miles away a parcel in 1992. The proposed project is for mixed light cultivation and due to the proximity of the cultivation area to NSO habitat, a proposed condition of approval to this project would require the applicant to maintain generator and fan noise at or below 50 decibels at the edge of the clearing or 100 feet, whichever distance is closer. This will satisfy the auditory disturbance guidance prepared by the U.S. Fish and Wildlife (USFS), California Fish and Wildlife (CDFW) and Department Policy Statement No. 16-005 to minimize impacts to the Northern Spotted Owl and Marbled Murrelet. The use of supplemental lighting complying with dark-sky standards can adequately address any lighting impacts on NSO and so does not recommend the prohibition of supplemental lighting during the breeding season but is recommending a condition of approval be added to this permit that would prohibit the use of artificial light until the applicant can demonstrate compliance with these noise and light standards. There is one approved outdoor and three pending (outdoor) commercial cannabis applications within 1

mile of the NSO activity center, and, because most of the applications only use artificial lighting for short durations, there is, therefore, no likelihood of cumulative impacts on this activity center from permitted commercial cannabis cultivation sites in the vicinity.

- f) A Less Than Three Acre Conversion Exemption (1-15EX-133HUM) was issued by CAL FIRE in 2015. The proposed project is entirely contained within the boundaries of the approved Timber Conversion areas, therefore the project will not result in a net loss of timberlands.
- g) There was Cultural Resources Investigation performed in the project's area of potential effect. The investigation, conducted by Archeological Research and Supply in March of 2019, discovered no known tribal cultural resources on the project site. The project was referred to the Northwest Information Center (NWIC) and the Hoopa Valley Tribe in 2017. The NWIC responded that their office has no record of any previous cultural resource studies for the project area but that the project area has the possibility of containing unrecorded archaeological site(s), and a study is recommended prior to commencement of project activities. Ongoing conditions of approval are incorporated regarding the Inadvertent Discoveries Protocol to protect cultural resources and tribal cultural resources.
- h) As requested by Public Works, a Road Evaluation Report was prepared for Old 3 Creeks Road from Highway 299 and concluded that the road segment is developed to the equivalent of a road category 4 standard.

FINDINGS FOR CONDITIONAL USE PERMIT AND 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) General agriculture is a use type permitted in the Timber Production Zone (TPZ) 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 TPZ-Zone in which the site is located.

- EVIDENCE:**
- a) The TPZ zone is applied to areas of the County in which timber production and recreation is the desirable predominant uses and general agriculture is the secondary uses.
 - b) All general agricultural uses are principally permitted in the TPZ zone.
 - c) Humboldt County Code Section 314-55.4.8.2.2 allows cultivation of up to 43,560 SF of existing outdoor cannabis and up to 22,000 SF of existing mixed light cannabis cultivation on a parcel over 5 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 is for 18,050 SF of mixed-light and cultivation on a parcel 160-acres in size.

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 TPZ (Section 314-55.4.8.2.2).
 - b) The parcel was created in compliance with all applicable state and local subdivision regulations, a Certificate of Subdivision Compliance was issued in 2012, Document Number 2012-029475-5.
 - c) Water for irrigation will be provided by a permitted well. The project is conditioned on the applicant developing enough water storage to serve at least 50% of the total annual water budget for the cultivation operation though the May15th to October 31st forbearance period.
 - d) The applicant submitted a Road Evaluation Report on September 10, 2018. The report states that the entire road segment is developed to the equivalent of road category 4 standard.
 - e) The cultivation of cannabis will not result in the net conversion of timberland.
 - f) The location of the cultivation complies with all 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,

church, public park or Tribal Cultural Resource.

6. FINDING: The cultivation of 18,050 square feet of mixed light cannabis cultivation with ancillary propagation 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 Cloud Crossing Road, a privately maintained road. The Road Evaluation Report concluded that the entire road segment is developed to the functional equivalent of a road category 4 standard and has been found to safely accommodate the amount of traffic generated by the proposed cannabis cultivation.

b) The site is in a rural part of the County where the typical parcel size is over 40 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.

c) Irrigation water will come from a groundwater well that has been permitted by the Division of Environmental Health.

d) Provisions have been made in the applicant's proposal to protect water quality and thus runoff to adjacent property and infiltration of water to groundwater resources will not be affected.

7. 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 in the Lower Trinity River 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 59 cultivation permits and the total approved acres would be 26.22 acres of cultivation.

8. 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.

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 for Emerald Mountain Coast LLC., based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1A and incorporated herein by reference.

Adopted after review and consideration of all the evidence on **November 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.

John Ford, Director
Planning and Building Department