

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

Resolution Number: 23-

Record Number: PLN-11496-CUP

Assessor's Parcel Number: 210-162-007

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Panther Rock Growers, MBC, Conditional Use Permit.

WHEREAS, Panther Rock Growers, MBC provided an application and evidence in support of approving a Conditional Use Permit for an existing 5,120 square foot outdoor and 15,841 mixed light commercial cannabis cultivation operation; and

WHEREAS, the lead agency, prepared an Addendum to the 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 November 16, 2023 and reviewed, considered, and discussed the application for a Conditional Use 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:** 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.

EVIDENCE: a) Project File: PLN-11496-CUP

- 2. FINDING:** **CEQA.** The project complies with the requirements of the California Environmental Quality Act. The Humboldt County Planning Commission has considered the Mitigated Negative Declaration previously adopted for the Commercial Medical Marijuana Land Use Ordinance as well as the Addendum to the Mitigated Negative

Declaration that was prepared for the project pursuant to Section 15164 of the CEQA guidelines.

- 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 Site Management Plan (SMP) showing compliance with the State Water Board Cannabis General Order for Waste Discharge. Conditions of approval require the applicant to adhere to and implement the recommendations of the SMP and maintain enrollment in the State Cannabis Cultivation Policy for the life of the project.
 - d) The project is for pre-existing cultivation. The nearest spotted owl activity center is approximately 1.3 miles to the northwest and additional owl activity centers are further from the site. 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. 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.
 - e) A Biological Report concluded that continuing the operation will not impact species of concern.
 - f) A Road Evaluation Report concludes the route leading to the subject parcel is developed to the equivalent of a category 4 road standard, is in good condition, and does not have any evidence of a site-specific safety problem.

FINDINGS FOR CONDITIONAL USE 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 Residential Agriculture (RA) 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 Forestry Recreation (FR) zone in which the site is located.

- EVIDENCE:**
- a) The Forestry Recreation (FR) zone is intended to be applied to areas of the County in which primary uses include the growing and harvesting of timber and timber production facilities, including portable processing equipment. Compatible uses other than the direct growing, harvesting, and portable processing of timber include grazing and other agricultural uses.
 - b) All accessory agricultural uses are principally permitted in the FR 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 cultivation and up to 22,000 square feet of existing mixed-light commercial cannabis on a parcel over 1 acre 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 20,960 square feet of cultivation on a 40-acre parcel is consistent with this and with the cultivation area verification prepared conducted by staff.
 - d) All cultivation is at least 30 feet from all property lines and there are no public parks, churches, school bus stops or other sensitive receptors within 600 feet of the cultivation areas.

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 (HCC 314-55.4.8.2.2).
 - b) The parcel was created in compliance with all applicable state and local subdivision regulations, as it was created as part of Deerfield Ranch Unit 4 filed in 1967, and exempted from tentative approval and parcel map or survey requirement by Statutes of 1965, Chapter 1180 due to the subdivision being all 40 acre or larger parcels.
 - c) The project will obtain water from a permitted point of diversion and rainwater catchment which are eligible water sources.
 - d) A Road Evaluation Report found the access roads to be functionally

appropriate for the expected traffic.

- e) The slope of the land where cannabis will be cultivated is 15% to 30 % on existing flats.
- f) The cultivation of cannabis will not result in the net conversion of timberland.
- g) 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 continued cultivation of 20,960 square feet of existing 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 located on road that 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 sizes in the area.
- c) Irrigation water will come from a permitted point of diversion and rainwater catchment which are eligible water sources.
- 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:

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 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.

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 Panther Rock Growers, MBC subject to the conditions of approval attached hereto as Attachment 1.

Adopted after review and consideration of all the evidence on **November 16, 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