

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

Resolution Number 23-

Record Number: PLN-11929-CUP

Assessor's Parcel Number: 212-311-002

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Georgi Stoyanov Special Permit request.

WHEREAS, Georgi Stoyanov submitted an application and evidence in support of approving a Special Permit for the continued operation of an existing 9,975 square foot (SF) outdoor cultivation utilizing light deprivation techniques and 980 SF of ancillary propagation. Irrigation water is sourced from a permitted groundwater well, and the applicant proposes to install rainwater catchment infrastructure as a supplemental water source. A hydrogeological report concludes the well is not hydrologically connected to surface waters or other significant groundwater sources. Existing available water storage is 6,300 gallons in four (4) hard-sided tanks, and the applicant proposes to obtain an additional 20,000 gallons of water storage. Estimated annual water usage is 132,000 gallons. Drying and processing occurs onsite in an existing residential accessory structure. No employees are required for project operations. Power is provided by Pacific Gas and Electric Company (PG&E); 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 30, 2023, and reviewed, considered, and discussed the application for 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:** The application is a Special Permit to allow an existing 9,975 square foot (SF) outdoor cultivation utilizing light deprivation techniques and 980 SF of ancillary propagation. Irrigation water is sourced from a permitted groundwater well, and the applicant proposes to install rainwater catchment infrastructure as a supplemental water source. A hydrogeological report concludes the well is not hydrologically connected to surface waters or other significant groundwater sources. Existing available water storage is 6,300 gallons in four (6) hard-sided tanks, with an additional 20,000 gallons of hard tank water storage proposed. Estimated annual water usage is 132,000 gallons. Drying and processing occurs onsite in an existing residential accessory structure. No

employees are required for project operations. Power is provided by Pacific Gas and Electric Company (PG&E).

EVIDENCE: a) Project File: PLN-11929-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 project specific Addendum to the MND.

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 Resource Protection Plan (WRPP; WDID 1B171720CHUM) was prepared by Timberland Resource Consultants for the subject site in April 2018 and revised in October 2018 in compliance with the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R1-2015-0023, and a Notice of Applicability (WDID 1_12CC417449; issued 9/6/19) was submitted by the applicant to show compliance with the State Water Board Cannabis General Order for Waste Discharge. Conditions of approval require the applicant to comply with the State Water Resources Control Board Cannabis Cultivation Policy, which includes development and implementation of a Site Management Plan, and maintain enrollment in the Cannabis General Order for the life of the project.
- d) Per review of CDFW's California Natural Diversity Database (CNDDDB) in March 2022, the site is mapped within potential habitat area for two (2) special status species, including the American peregrine falcon (*Falco peregrinus anatum*) and the western bumble bee (*Bombus occidentalis*). The nearest Northern Spotted Owl (NSO) positive sighting is located approximately 0.22 miles from the cultivation area, with the nearest NSO activity center located approximately 1.03 miles away. Power at the site is provided by Pacific Gas and Electric Company (PG&E).

A Biological Reconnaissance Report (Biological Report) was prepared by Jessica R. Stauffer and Sean McAllister, wildlife biologists, in March 2019 (on file and confidential) to assess the suitability of the site to support special-status plant and animal species and evaluate potential impacts on sensitive biological resources associated with commercial cannabis cultivation. As noted in the Report, the project area lacks habitat for most special status plants on the scoping list and does not include special-status riparian habitat, waterways, or wetlands. Eighteen (18) wildlife species have a moderate or high potential for occurrence. Since the project proposes no new grading, disturbance to natural vegetation, or activities outside of the existing footprint, it is concluded the project would have no effect on

special status plants and natural communities, as well as no effect on riparian habitat or Waters of the United States, since there are no such features onsite. Additionally, significant impacts on special-status wildlife species are not anticipated, since the project is outside of their known ranges, suitable habitat is lacking, and the project does not involve habitat modification, significant noise disturbance, or unnatural lighting. If the project is modified or expanded in the future, it is recommended that seasonally appropriate surveys be conducted prior to any new construction, ground-disturbance, or vegetation removal, which has been included as an ongoing condition of approval.

Conditions of approval will require noise to be at below 50 decibels at 100 feet which is below the guidance established by the California Department of Fish and Wildlife for protection of the species. Additional conditions of approval require the applicant to implement light attenuation measures, refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife. As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively impact NSO or other sensitive species.

- e) The cultivation of cannabis will not result in the net conversion of timberland. Review of aerial imagery dating back to 2004 indicates the site contained existing open areas along the northern and southeastern portions of the property; however, it appears that timber was removed from the site between 2014 and 2016 to accommodate two (2) greenhouses within the northern portion of the site. A third greenhouse appears to have been added to the northeastern corner of the site between 2016 and 2018.

A Timber Conversion Evaluation with Restocking Plan was prepared by Timberland Resource Consultants (TRC) in November 2018 to assess the amount of timberland conversion that has occurred on the subject property and associated impacts. The Report notes that 0.35 acres of unauthorized timberland conversion occurred onsite within the western cultivation area, which is under the three-acre conversion exemption maximum. In 2014, it is noted that a natural grassy opening was 0.20 acres, but in 2016, the total area was approximately 0.55 acres. Restocking at a ratio of 3:1 was recommended. Based on the 0.35-acre conversion, a minimum of 1.05 acres of restocking with conifers is required, which equates to a minimum of 500 redwood and/or Douglas-fir trees. A follow-up letter was prepared by TRC in April 2019 to confirm the required restocking occurred on February 5, 2019, in which 500 redwood seedlings were interplanted at a ratio of 3:1 on the areas shown on the maps in the Report. It is further noted in the letter that two (2) years of monitoring of the existing stocking and replanted redwood seedlings shall occur to ensure the area meets the stocking standards of 14CCR 912.7. A recommended condition of approval has been included to require confirmation from a Registered Professional Forester (RFP) that all recommendations from the Timber Conversion Evaluation, Restocking Plan, and follow-up letter have been completed and meets the stocking standards of 14CCR 912.7, including the required two (2) years of

monitoring. If restocking standards are found to not be met, a follow up report shall be prepared, which includes specific recommendations and requirements the applicant must follow to bring the site into compliance.

No additional tree removal is proposed or authorized by this permit.

- f) A Cultural Resources Investigation was prepared by Archaeological Research and Supply Company in February 2020 (on file and confidential), which concluded that the proposed project will not result in any adverse changes to historical or archaeological resources. The Report recommended Inadvertent Discoveries Protocol, as well as the Bear River Band of the Rohnerville Ranchera in March 2022, which has been included as an ongoing condition of approval.
- g) A Road Evaluation Report for the privately maintained road, from State Highway 254 to the subject property, was prepared in October 2019, which indicates that the roadway meets a Category 4 road equivalent standard and is suitable for safe access to and from the project site. Comments were received from the Department of Public Works, Land Use Divisions, dated December 2019, which provided a summary of the Road Evaluation Report and noted the project takes access from a non-county-maintained road that connects directly to a State Highway (State Highway 254). The project was referred to Caltrans District #1 in November 2019; however, no comments have been received to date. A condition of approval requires the applicant to ensure the driveway meets Caltrans' commercial driveway standards and sight distance. Any work to improve the driveway or sight distance within the State right-of-way will require an encroachment permit from Caltrans.

FINDINGS FOR 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 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 the 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 Agriculture Exclusive (AE) zone in which the site is located.

EVIDENCE: a) The Agriculture Exclusive or AE Zone is intended to be applied in fertile areas in which agriculture is and should be the desirable predominant use and in which the protection of this use from encroachment from incompatible uses is essential to the general welfare.

b) All general agricultural uses are principally permitted in the AE zone.

- c) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 10,000 square feet of existing outdoor cannabis and up to 10,000 square feet of existing mixed-light cannabis on a parcel over 1 acre subject to approval of a Special Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for 9,975 square feet of cultivation on a 14.5-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 AE (HCC 314-55.4.8.2.2).
 - b) The parcel was created in compliance with all applicable state and local subdivision regulations, as identified under a prior permit (Building Permit 91-0840-0B-3), approved June 6, 1991, by the Humboldt County Zoning Administrator.
 - c) Water for irrigation is provided by a permitted onsite groundwater well (18/19-1053). The onsite well is also registered with the California Department of Water Resources (WCR2019-010978). The well is located in the southern portion of the subject site. According to the Well Completion Report, the well is 200 feet deep. A blank is installed for the first 100 feet of the well, with a screen installed for the next 20 feet, and an additional blank installed for the last 80 feet in depth. The depth to first water was recorded at 105 feet below ground surface (bgs), with depth to static water level reported at 101 feet bgs.

A Hydrogeological Report was prepared by Pacific Watershed Associates (PWA) in May 2020. Per the Report, there is a Class III ephemeral stream located approximately 170 southwest and 34 feet downslope of the well head, and the South Fork Eel River is located approximately 900 feet to the southwest and approximately 300 feet in vertical relief from the well head location. The Report notes that, based on large scale geologic mapping of the area, the well is drilled within a thin (<0.5 km) mapped sliver of central belt Franciscan broken formation (cb1) bedrock. Based on the well screening between 100 and 120 feet bgs, this allows for groundwater to flow into the well casing from the blue fractured sandstone and be stored within the remaining well casing for use. For the approximate 80-100 feet of the well casing below the screened interval, it was calculated that approximately 470 to 580 gallons of water can be stored within the well. It is concluded that the onsite well is pulling water from fractured bedrock and not from surface water or near surface waters. It is further noted that “PWA believes that this well is not hydrologically connected to surface waters or other significant groundwater sources.”

As the well is hydrologically disconnected from surface waters, it does not require additional water rights from the State Water Resources Control Board and is not subject to forbearance or water storage requirements. Conditions of approval require the applicant to monitor water use from the

well and water storage tanks annually to demonstrate there is sufficient water available to meet operational needs.

- d) A Road Evaluation Report for the privately maintained road, from State Highway 254 to the subject property, was prepared in October 2019, which indicates that the roadway meets a Category 4 road equivalent standard and is functionally appropriate for the expected traffic. Comments were received from the Department of Public Works, Land Use Divisions, dated December 2019, which provided a summary of the Road Evaluation Report and noted the project takes access from a non-county-maintained road that connects directly to a State Highway (State Highway 254). The project was referred to Caltrans District #1 in November 2019; however, no comments have been received to date. A condition of approval requires the applicant to ensure the driveway meets Caltrans' commercial driveway standards and sight distance. Any work to improve the driveway or sight distance within the State right-of-way will require an encroachment permit from Caltrans.
- e) The slope of the land where cannabis will be cultivated is 1-5%, as indicated by the Water Resource Protection Plan prepared for the site by Timberland Resource Consultants in April 2018 and revised in October 2018.
- f) The cultivation of cannabis will not result in the net conversion of timberland. Review of aerial imagery dating back to 2004 indicates the site contained existing open areas along the northern and southeastern portions of the property; however, it appears that timber was removed from the site between 2014 and 2016 to accommodate two (2) greenhouses within the northern portion of the site. A third greenhouse appears to have been added to the northeastern corner of the site between 2016 and 2018.

A Timber Conversion Evaluation with Restocking Plan was prepared by Timberland Resource Consultants (TRC) in November 2018 to assess the amount of timberland conversion that has occurred on the subject property and associated impacts. The Report notes that 0.35 acres of unauthorized timberland conversion occurred onsite within the western cultivation area, which is under the three-acre conversion exemption maximum. In 2014, it is noted that a natural grassy opening was 0.20 acres, but in 2016, the total area was approximately 0.55 acres. Restocking at a ratio of 3:1 was recommended. Based on the 0.35-acre conversion, a minimum of 1.05 acres of restocking with conifers is required, which equates to a minimum of 500 redwood and/or Douglas-fir trees. A follow-up letter was prepared by TRC in April 2019 to confirm the required restocking occurred on February 5, 2019, in which 500 redwood seedlings were interplanted at a ratio of 3:1 on the areas shown on the maps in the Report. It is further noted in the letter that two (2) years of monitoring of the existing stocking and replanted redwood seedlings shall occur to ensure the area meets the stocking standards of 14CCR 912.7. A recommended condition of approval has been included to require confirmation from a Registered Professional Forester (RFP) that all recommendations from the Timber Conversion Evaluation, Restocking Plan, and follow-up letter have been completed and meets the stocking standards of 14CCR 912.7, including the required two (2) years of

monitoring. If restocking standards are found to not be met, a follow up report shall be prepared, which includes specific recommendations and requirements the applicant must follow to bring the site into compliance.

No additional tree removal is proposed or authorized by this permit.

- g) The location of the cultivation complies with all setbacks required in Section 314-55.4.11.d. It is more than 30 from any property line, more than 300 feet from any off-site residence, more than 600 feet from any school, church, public park or Tribal Cultural Resource.

6. FINDING: The cultivation of 9,975 SF 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 located on road that has been certified to safely accommodate the amount of traffic generated by the proposed cannabis cultivation. The project is conditioned to require the applicant to ensure the driveway meets Caltrans' commercial driveway standards and sight distance. Any work to improve the driveway or sight distance within the State right-of-way will require an encroachment permit from Caltrans.
 - b) 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) The location of the proposed cannabis cultivation is more than 300 feet from the nearest off-site residence.
 - d) Irrigation water will come from a permitted groundwater well (18/19-1053). A Hydrogeological Report was prepared by Pacific Watershed Associates (PWA) in May 2020, which concludes the well is not hydrologically connected to surface waters or other significant groundwater sources.
 - e) 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 is currently developed with an existing residence. The approval of cannabis cultivation on this parcel will not conflict with the ability for the existing residence to continue to be utilized 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 Eel Planning Watershed, which under Resolution 18-43 is limited to 730 permits and 251 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 306 permits and the total approved acres would be 84.6-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 Special Permit for Georgi Stoyanov subject to the conditions of approval attached hereto as Attachment 1A and the Cultivation Operations Plan attached hereto as Attachment 1B and Site Plan attached hereto as Attachment 1C.

Adopted after review and consideration of all the evidence on November 30, 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 H. 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 H. Ford, Director
Planning and Building Department