

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

Resolution Number 23-

Record Number PLN-11795-CUP

Assessor's Parcel Number: 210-144-012

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Fantastic Gardens Humboldt, LLC Zoning Clearance Certificate and Special Permit.

WHEREAS, Fantastic Gardens Humboldt, LLC applied for Zoning Clearance Certificate PLN-11795-CUP for 3,792 square feet (SF) of mixed light cannabis cultivation, with appurtenant propagation and drying activities, and a Special Permit for work within the Streamside Management Area (SMA);

WHEREAS, the County prepared an Addendum to the Final Mitigated Negative Declaration (MND) 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 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; 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 the requested 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:** **Project Description:** A Zoning Clearance Certificate for 3,792 square feet (SF) of existing mixed-light commercial cannabis cultivation and a Special Permit for work within the Streamside Management Area (SMA) for culvert replacement and crossing upgrades, as recommended by the Site Management Plan. The project site shares water resources and propagation facilities with two adjacent project sites on separate parcels under the same ownership (APNs 210-144-011 and 210-144-017). Plants are propagated in two (2) nurseries totaling 2,650 SF on APN 210-144-011. Irrigation water is sourced from one (1) 420,000-gallon rainwater catchment pond on an adjacent parcel (APN 210-144-017) and three (3) surface water points of diversion (POD): POD-1 and POD-2 (both located on APN 210-144-011) and POD-3 (APN 210-144-012). Estimated annual water use across the three (3) project sites is 465,000 gallons (11.5 gal/SF). Water is stored in the pond and in forty-one (41) tanks located on the three (3) project sites, including: one (1) 5,000-gallon tank, thirty-five (35) 2,500-gallon tanks, one (1) 1,500-gallon tank, and four (4) 1,000-gallon tanks. Total water storage is 518,000 gallons. The primary source of electrical power is an existing solar system. A 7-kW Honda generator is used as a backup power source.

EVIDENCE: a) Project File: PLN-11795-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 to the MND prepared for the proposed project in compliance with CEQA.
 - 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 Botanical Survey Report was prepared by Hohman & Associates Forestry Consultants (September 5, 2019; revised July 2020). Seasonally appropriate floristic surveys were performed on May 22, July 14, and July 19, 2019. A rare plant species, beaked tracyina, was initially reported as present on one parcel within the project area (210-144-017). However, a follow-up visit to the site (June 19, 2020) revealed that these reports were made in error, and the identified plants were actually *Crepis pulchra*. No special status plant or animal species were identified within the project area, and no recommendations were made. Project activities are not expected to produce adverse or cumulative effects to any special status species or habitat, due to the small size of the project area and the type of proposed activities. Therefore, potential project impacts to biological resources are considered low and unlikely, with implementation of the mitigation measures identified in the CMMLUO Mitigated Negative Declaration (MND) adopted on January 26, 2016.
 - d) A Site Management Plan (SMP) was prepared in fulfillment of State Water Resources Control Board (SWRCB) General Order WQ 2019-0001-DWQ. The document was prepared to meet the North Coast Regional Water Quality Control Board (NCRWQCB) requirements for Tier 2 discharges of waste resulting from cannabis cultivation (WDID No. 1_12CC427340).
 - e) The project was referred to the California Historical Resources Information System – Northwest Information Center (NWIC) and the Bear River Band of the Rohnerville Rancheria. After reviewing project materials, Melanie J. McCavour, Ph.D., the Tribal Historic Preservation Officer for the Bear River Band of the Rohnerville Rancheria, found that the project is unlikely to have significant impacts on cultural resources and recommended that the standard inadvertent discovery protocol be applied to the project.

FINDINGS FOR ZONING CLEARANCE CERTIFICATE 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 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.

b) Portions of existing cultivation areas are located within a streamside management area (SMA). A Cannabis Relocation and Restoration Plan (November 2, 2022) was prepared by Natural Resources Management Corporation to address 3,221 square feet of cultivation area located within the SMA. The relocation site is located on the eastern side of the property. Relocated cultivation area will be moved into two (2) 1,200-SF hoop houses on slopes less than 15 percent. Pre-existing cultivation area within the SMA will be cleaned up and revegetated with 504 Oregon white oak trees, equivalent to one tree for every 25 SF of the former cultivation site. A five-year monitoring, reporting, and maintenance plan will ensure the revegetation effort is successful, meaning at least 85 percent of plantings survive and less than 5 percent of the absolute cover area is composed of invasive plants.

4. FINDING The proposed development is consistent with the purposes of the existing Forestry Recreation (FR) and Special Combining Zone (B) zoning designations in which the site is located.

EVIDENCE: a) The FR zone is intended to be applied to forested areas of the County in which timber production and recreation are the desirable predominant uses and agriculture is the secondary use, and in which protection of the timber and recreational lands is essential to the general welfare. General agriculture, including the cultivation of cannabis, is a principal permitted use in this zoning district. The B zone is intended to be combined with any principal zone in which sound and orderly planning indicate that lot area and yard requirements should be modified.

b) Humboldt County Code section 313-106.6 allows cultivation of up to 43,560 SF of existing outdoor cannabis and up to 22,000 SF of existing mixed-light 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 a total of 3,792 square feet (SF) of mixed light cannabis cultivation on a 40-acre parcel is consistent with the Humboldt County Code 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 Forestry Recreation (FR), (HCC 314-7.3)
 - b) The project parcel is a legal parcel because it is part of Deerfield Ranch Unit 4 subdivision filed with state in 1967, which was 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) Irrigation water is sourced from one (1) 420,000-gallon rainwater catchment pond on an adjacent parcel (APN 210-144-017) and three (3) surface water points of diversion (POD): POD-1 and POD-2 (both located on APN 210-144-011), and POD-3 (APN 210-144-012). Estimated annual water use across three (3) project sites (PLN-11797-CUP, PLN-11795-CUP, and PLN-11969-CUP) is 465,000 gallons (11.5 gal/SF). Water is stored in the pond and in forty-one (41) tanks on three (3) project sites: one (1) 5,000-gallon tank, thirty-five (35) 2,500-gallon tanks, one (1) 1,500-gallon tank, and four (4) 1,000-gallon tanks. Total water storage is 518,000 gallons. The applicant has been conditioned to remove two (2) water bladders (25,000 and 20,000 gallons) to limit the potential for erosion.
 - d) Cultivation will occur on slopes of 15% or less.
 - e) The cultivation of cannabis will not result in the additional conversion of timberland. A Less Than Three Acre Conversion Mitigation Plan was prepared by Steven Hohman, RPF, in February 2021 to address approximately 0.72 acre of unauthorized timberland conversion at five (5) sites between 2005 and 2012.
 - f) The location of the cultivation, including relocated cultivation areas, complies with all setbacks required in Section 314-55.4.11.d. It is more than 30 feet from any property line, more than 300 feet from any offsite residence, and more than 600 feet from any school, church, public park, or Tribal Cultural Resource.

6. FINDING The cultivation of 3,792 SF of cannabis 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) All access roads on the property shall be maintained in compliance with the State Water Resources Control Board Order WQ 2019-0001-DWQ, which states that all access roads are to be hydrologically disconnected to receiving waters. To ensure that roads meet this condition, the applicant shall implement the erosion control measures outlined in the SMP that address replacing culverts and decommissioning crossings.
 - 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) The location of the proposed cannabis cultivation is more than 300 feet from the nearest off-site residence.
- d) Irrigation water is sourced from one (1) 420,000-gallon rainwater catchment pond on an adjacent parcel (APN 210-144-017) and three (3) surface water points of diversion (POD): POD-1 and POD-2 (both located on APN 210-144-011), and POD-3 (APN 210-144-012). Estimated annual water use across three (3) project sites (PLN-11797-CUP, PLN-11795-CUP, and PLN-11969-CUP) is 465,000 gallons (11.5 gal/SF). Water is stored in the pond and in forty-one (41) tanks on three (3) project sites: one (1) 5,000-gallon tank, thirty-five (35) 2,500-gallon tanks, one (1) 1,500-gallon tank, and four (4) 1,000-gallon tanks. Total water storage is 518,000 gallons.
- e) Provisions have been made in the applicant's proposal to protect water quality through yearly site inspection, monitoring, and reporting to the NCRWQCB. Annual reporting shall be submitted to the NCRWQCB. Therefore, runoff to adjacent property and infiltration of water to groundwater resources will not be adversely 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 contains one (1) existing residential unit. The approval of cannabis cultivation on this parcel will not conflict with the operation or use of the existing residential unit onsite.

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:

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. The project site is in the Van Duzen Planning Watershed, which under Resolution 18-43 is limited to 425 permits and 146 acres of cultivation. With the approval of this project the total approved permits for cultivation in this Planning Watershed would be 119 permits and the total approved acres would be 39.9 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 approve the Zoning Clearance Certificate (PLN-11795-CUP) and Special Permit for Fantastic Gardens Humboldt, 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.

John Ford, Director
Planning and Building Department