

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

Resolution Number 23-

Record Number PLN-2022-18049

Assessor's Parcel Number: 524-072-010

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the New Earth Farms, LLC, Special Permit.

WHEREAS, New Earth Farms, LLC, submitted an application and evidence in support of approving a Special Permit for 32,500 square feet (SF) of new mixed-light cannabis cultivation with appurtenant nursery and drying; and a Special Permit for a setback reduction to Public Lands; and

WHEREAS, the County Planning Division, the lead agency, prepared an Addendum to the Final 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 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; 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 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 Special Permit for 32,500 square feet (SF) of new mixed-light commercial cannabis cultivation, and a Special Permit for a setback reduction to Public Lands, the Six Rivers National Forest. There is an existing approved permit on-site for 10,000 square feet of mixed-light cultivation. The total area of mixed-light cultivation on-site is proposed to be 42,500 SF. A total 3,000 SF ancillary nursery is proposed to support cultivation activities. The applicant projects three (3) harvests annually. Water for irrigation will be supplied by an existing and proposed rainwater catchment system from roof tops with a total capture area of 52,599 square feet. Existing available water storage totals 17,500 gallons and the total water storage proposed is 600,000. Estimated annual water use for the 42,500 SF of cultivation and 3,000 SF of nursery, is approximately 595,000 gallons (13 gal/SF/yr). The applicant is proposing to conduct all trimming and packaging off-site at a licensed processing facility. Drying and curing is proposed to occur in a proposed 2,400 square foot ag-exempt structure. Energy for the operation will be supplied by PG&E renewable sources. There will be up to 7 employees on-site during peak operations.

EVIDENCE: a) Project File: PLN-2022-18049

- 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 (EIR) 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) Water for irrigation will come from rain catchment off of rooftops and open rain catchment tanks.
- d) A Site Management Plan was prepared by Northpoint Consulting Group Inc. to show compliance with the State Water Resource Control Board Order No. WQ 2019-0001-DWQ. The applicant shall continue to adhere to the Best Practicable Treatment or Control (BPTC) measures and annual monitoring/treatment timelines in the Site Management Plan.
- e) A Notice of Applicability for proof of enrollment in the State Water Resources Control Board General Order WQ 2019-0001-DWQ, under WDID: 1_12CC417141.
- f) There is one (1) Class III intermittent stream and a man-made impoundment pond (not utilized for cannabis irrigation) with the associated 50-foot streamside management area buffers. A Wetland and Watercourse Evaluation was performed by J. Regan Consulting in November 2021. The evaluation concluded that the pond/wetland feature is completely man-made and does not appear to require a buffer under the County's Streamside Management Areas and Wetlands Ordinance. Existing cultivation areas and ancillary infrastructure to support commercial activities (both existing and proposed) are outside of the required streamside management area buffers. Approval of this permit does not authorize use of the pond feature to support any commercial cannabis cultivation activities.
- g) The applicant had an Initial Biological Scoping Report that was prepared by Biologist Corrina Kamoroff with Hohman & Associates Forestry Consultants, dated June 24, 2022. The applicant is required to adhere to the recommendation in the Report.
- h) The Botanical Survey Report (BSR) was prepared by Botanist Caitlyn Allchin with Hohman and Associates Forestry Consultants, dated June 24, 2022. The BSR states that the botanical surveys were conducted on May 18, 2020, and July 15, 2020. No protected rare or endangered plants were detected at the project's cultivation site. The applicant is required to adhere to the recommendations in the Report.
- i) The Raptor Survey Report (RSR) was prepared by Biologist Grace Sanderson with Hohman and Associates Forestry Consulting, dated June 24, 2022. The RSR states that two (2) raptor surveys were conducted on April 1, 2021, and May 20, 2021. No sensitive species were observed

during both surveys, no nesting behavior was observed on or near the property, and the proposed operations are not expected to impact any nesting raptors. Additional raptor surveys are recommended if construction is planned for 2022 or later. The applicant shall obtain additional raptor surveys during the breeding season prior to any construction activities on-site.

- j) The project is located approximately 0.74 miles to the nearest known Northern Spotted Owl (NSO) activity center, and is approximately 0.43 feet to the nearest positive NSO observation site. The applicant has obtained an NSO Survey Report (NSOSR) that was prepared by Biologist Corrina Kamoroff with Hohman and Associates Forestry Consultants, dated May 25, 2022. The NSOSR discusses the effects of the Knob fire that occurred in 2021, which burned approximately 2,421 acres surrounding the project area. There were three (3) known activity center within 1.3 miles of the project area, two (2) of which were located on the edge of the fire perimeter and may no longer be considered NSO habitat. There was an on-going Willow Creek Northern Spotted Owl Demographic study which has been surveying from the early 1990's through 2022, with five (5) site being monitored. At the end of the 2021 NSO survey season, only one of the sites (HUM1059) has been documented to be occupied by NSO since 2017, and there have been no additional NSO detections outside of the historic sites since 2021. The NSOSR states that no additional NSO surveys are recommended at this time
- k) No timber conversion has occurred on the site, and approval of this project does not authorize any future timber conversion.
- l) The site is accessed from private road Staton Drive, from county-maintained Friday Ridge Road, from State Hwy 299. The applicant had a Road Evaluation Report (RER) prepared by Northpoint Consulting Group, dated January 2021, which assesses the 0.6 miles of the private access road Staton Drive. The RER shows that the entire road segment is on average 18-20 feet in width with adequate shoulders and turnouts at all pinch points. The RER concludes that the road system used to access the project has been determined to be within conformance of Section 55.4.12.1.8 of the CCLUO, with the recommended improvements listed in Table 1 of the RER. The applicant shall complete the road improvements listed in Table 1 of the RER prior to commencing the additional cultivation activities on-site. The project was referred to the Department of Public Works on April 12, 2023, and comments were received by the agency on April 20, 2023. Comments from Public Works included the same recommended conditions on the project as the approved project (PLN-12260-SP). As the access also connects to State Hwy 299, the project was referred to CalTrans, and no comments were received. There are several approved cannabis projects that are accessed from Staton Drive (Applications 12270, 12099, 12213, 12098, and 12101), and all permit holders shall enter into a Road Maintenance Association in order to establish rules and mechanisms for road maintenance.

- m) The project is located within the Hoopa Tribe and Tsnungwe Tribes ancestral aboriginal territories. The applicant has submitted a Cultural Resource Investigation Report (CRIR) that was prepared for the approved project 12260, and included an investigation of the proposed cultivation site. The CRIR was prepared by William Rich, M.A., RPA, with William Rich and Associates, dated May 2021, and was submitted to the Tsnungwe Council for review on May 15, 2023. The Tsnungwe Council responded on May 16, 2023, stating that they are okay with the project proposal and the findings of the CRIR. The CRIR found no significant archaeological or historical-period cultural resources within the limits of the project area. The applicant shall adhere to Inadvertent Discover Protocols.

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) The proposed project is not planned or zoned as open space, does not have a combining zone that would be considered open space.

4. FINDING The proposed development is consistent with the purposes of the existing U zone in which the site is located.

EVIDENCE

- a) The Unclassified or U Zone is intended to be applied to areas of the County in which general agriculture uses is a desirable use.
- b) All general agricultural uses are principally permitted in the U zone.
- c) Humboldt County Code section 55.4.6.1.2 (b) allows cultivation of up to 43,560 square feet of new cannabis cultivation on a parcel zoned U over 10 acres subject to approval of a Special Permit. The application to allow a total of 32,500 square feet of new mixed-light cannabis cultivation on a 30-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 CCLUO Provisions of the Zoning Ordinance.

EVIDENCE

- a) The CCLUO allows new and existing cannabis cultivation to be permitted in areas zoned U (HCC 314-55.4.6.1.1).
- b) The subject parcel has been determined to be one legal parcel created by Parcel Map 1146 (lot 4) recorded in Book 10 of Parcel Maps.
- c) The project will source water from rain catchment collected from rooftops.
- d) The site is accessed from private road Staton Drive, from county-maintained Friday Ridge Road, from State Hwy 299. The applicant had a Road Evaluation Report (RER) prepared by Northpoint Consulting Group, dated January 2021, which assesses the 0.6 miles of the private

access road Staton Drive. The RER shows that the entire road segment is on average 18-20 feet in width with adequate shoulders and turnouts at all pinch points. The RER concludes that the road system used to access the project has been determined to be within conformance of Section 55.4.12.1.8 of the CCLUO, with the recommended improvements. The applicant shall complete the road improvements listed in Table 1 of the RER prior to commencing the additional cultivation activities on-site. The project was referred to the Department of Public Works on April 12, 2023, and comments were received by the agency on April 20, 2023. Comments from Public Works included the same recommended conditions on the project as the approved project (PLN-12260-SP). As the access also connects to State Hwy 299, the project was referred to CalTrans, and no comments were received. There are several approved cannabis projects that are accessed from Staton Drive (Applications 12270, 12099, 12213, 12098, and 12101), and all permit holders shall enter into a Road Maintenance Association in order to establish rules and mechanisms for road maintenance.

- e) Energy for the operation will be supplied by PG&E renewable sources. The parcel is currently tied with the PG&E grid, and the applicant is working with PG&E, a licensed electrician, and an electrical engineer to develop the sites infrastructure for additional power delivery to ensure that the available power is sufficient for the full 42,500 SF of mixed-light cannabis cultivation. Prior to the issuance of building permits or initiation of any activities requiring the use of electricity, the applicant shall provide documentation demonstrating adequate electricity is available to the project site, to the satisfaction of the Planning Director. The applicant plans to source renewable energy by enrolling in PG&E's 100% Solar Choice program or the RCEA Power+ plan, and is required to show proof of enrollment in a 100% renewable energy plan with PG&E prior to commencement of cultivation activities.
- f) No timber conversion has occurred on the parcel, and approval of this project does not authorize any future timber conversion.
- g) The location of the cultivation complies with the setbacks required in Section 314-55.4.6.4.4. It is more than 30 feet from any property line, more than 300 feet from any off-site residence, and more than 600 feet from any school, school bus stop, church, Tribal Cultural Resource.

The previously approved project was approved for a setback reduction to Public Lands, the Six Rivers National Forest (SRNF). This project is also requesting a Special Permit to reduce the 600-foot setback to Public Lands, and will not significantly change the setback from SRNF, and will lessen the setback from 70 feet for the approved project to 30 feet for the proposed activities. The project was referred to the SRNF on April 12, 2023, and no comments were received.

The adjacent public land is subject to the Land and Resource Management Plan - Six Rivers National Forest 1995 (L&RMP). The project is consistent with the L&RMP because the cultivation activities will minimize impacts to biological resources and wildlife through measures to reduce potential light and noise impacts. The applicant will obtain

100% renewable power from PG&E, and water is collected from rain catchment. The project is consistent with recreational use on public lands as the proposed project is not located near developed campgrounds, trails, or other related facilities. The project site is more than 600 feet from any school, school bus stop, church or other place of religious worship, or Tribal Cultural Resource.

The project is less than 270 feet from an undeveloped parcel, the SRNF. As the undeveloped parcel is Public Lands, it is not anticipated that any future development will occur on the SRNF.

6. FINDING

The cultivation of 32,500 SF of new mixed-light 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 in a rural part of the County where 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 site is accessed from private road Staton Drive, from county-maintained Friday Ridge Road, from State Hwy 299. The applicant had a Road Evaluation Report (RER) prepared by Northpoint Consulting Group, dated January 2021, which assesses the 0.6 miles of the private access road Staton Drive. The RER shows that the entire road segment is on average 18-20 feet in width with adequate shoulders and turnouts at all pinch points. The RER concludes that the road system used to access the project has been determined to be within conformance of Section 55.4.12.1.8 of the CCLUO, with the recommended improvements. The applicant shall complete the road improvements listed in Table 1 of the RER prior to commencing the additional cultivation activities on-site. The project was referred to the Department of Public Works on April 12, 2023, and comments were received by the agency on April 20, 2023. Comments from Public Works included the same recommended conditions on the project as the approved project (PLN-12260-SP). As the access also connects to State Hwy 299, the project was referred to CalTrans, and no comments were received. There are several approved cannabis projects that are accessed from Staton Drive (Applications 12270, 12099, 12213, 12098, and 12101), and all permit holders shall enter into a Road Maintenance Association in order to establish rules and mechanisms for road maintenance.
- c) Energy for the operation will be supplied by PG&E renewable sources. The parcel is currently tied with the PG&E grid, and the applicant is working with PG&E, a licensed electrician, and an electrical engineer to develop the sites infrastructure for additional power delivery to ensure that the available power is sufficient for the full 42,500 SF of mixed-light cannabis cultivation. Prior to the issuance of building permits or initiation

of any activities requiring the use of electricity, the applicant shall provide documentation demonstrating adequate electricity is available to the project site, to the satisfaction of the Planning Director. The applicant plans to source renewable energy by enrolling in PG&E's 100% Solar Choice program or the RCEA Power+ plan, and is required to show proof of enrollment in a 100% renewable energy plan with PG&E prior to commencement of cultivation activities

- d) The project is located in an area designated to have a Very High Fire Hazard Severity, and is located within the Willow Creek Volunteer Fire District (WCVFD) for local fire response area. The project was referred to the WCVFD on April 12, 2023, and no comments have been received. The project is also located within the State Responsibility Area (SRA) for CalFire. The Site Plan shows a firetruck turnaround, and the applicant has one (1) 2,500 gallon water storage tank designated for fire suppression needs only. The designated fire suppression tank shall have the appropriate fire hose that meets CalFire SRA requirements. The project proposes to include the management of trees and vegetation around the existing structures to maintain a 100-foot defensible space from structures.
- e) All water will be sourced by rain catchment collected from rooftops.

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 located in the Lower Trinity Planning 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 61 cultivation permits and the total approved acres would be 26.6 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 New Earth Farms, LLC, 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 **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