

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

Resolution Number: 23-

Record Number: PLN-12244-CUP

Assessor's Parcel Number: 222-071-030

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Humboldt Spirit, Inc. Conditional Use Permit and Special Permit request.

WHEREAS, Humboldt Spirit, Inc. submitted an application and evidence in support of approving a Conditional Use Permit for 30,000 square feet (SF) of existing outdoor cannabis cultivation in greenhouses and 3,000 SF of ancillary propagation, with irrigation water sourced from a rainwater catchment pond. The application also includes a Special Permit as is required for work within in the Streamside Management Area; 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 July 20, 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 30,000 square feet of existing outdoor light-deprivation cannabis cultivation. The proposed project includes relocation of eight historic cultivation areas into three cultivation areas. There is a 3,000-square-foot nursery to support on-site operations. The applicant estimates 264,825 gallons of water is required to meet annual needs. Water for irrigation is sourced from an existing 930,626-gallon off-stream rainwater catchment pond. Water is stored in the described pond and three hard tanks for a total capacity of 932,531 gallons. Drying will occur on-site within a proposed 2,000 SF structure, with other

processing completed offsite. Electricity is provided by a propane generator and solar power. There will be up to three employees onsite. The application also includes a Special Permit as is required for development in the Streamside Management Area (SMA) for the realignment of native channels and restoration efforts within the SMA associated with the removal of cannabis cultivation and associated infrastructure.

EVIDENCE a) Project File: PLN-12244-CUP

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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 Humboldt Spirit, Inc. project.

EVIDENCE a) Addendum prepared for the proposed project.

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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) was prepared for the site by Timberland Resource Consultants (WDID 1_12CC407540) in September of 2021 (Attachment 4H), which details existing site conditions and remediation efforts needed to comply with the best practical treatment or control (BPTC) measures listed in Attachment A of the Cannabis General Order. A total of forty-six unique points were identified as requiring remediation, including ditch relief culvert installations, rocked rolling dip installations, culvert upgrades, watercourse realignment, waterbar installations, watercourse crossing decommissioning, removal of cultivation related wastes, invasive species removal, reseeding of disturbed areas, water meter installation, rock armor installation at pond overflow, and providing secondary containment for all liquid petroleum products, generators, and pumps. The project is conditioned to implement all remaining corrective actions detailed in the SMP to minimize any potential impacts associated with the project and minimize runoff into nearby SMAs.

- d) The nearest Marbled Murrelet habitat is approximately 0.37 miles to the northeast. The Nearest Northern Spotted Owl activity center is located 1.29 miles south of the cultivation area with an observation on the adjacent parcel, approximately 0.55 miles southeast from the cultivation area. Although the proposed project is for outdoor cultivation, the applicant is proposing to use artificial lighting in the three (3) 1,000-square-foot propagation greenhouses. 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 (mixed light) and three pending (outdoor) commercial cannabis applications within 1 mile of the NSO activity center, and, because the majority of the application 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.
- e) The cultivation of cannabis will not result in the net conversion of timberland.
- f) The project was referred to the Northwest Information Center (NWIC), the Bear River Band of Rohnerville Rancheria and the Sinkyone Intertribal Wilderness Council. Both NWIC and the Bear River Band of Rohnerville Rancheria requested a cultural resources study. A Cultural Resource Investigation Report was prepared by Roscoe and Associates. One archeologic site and four historic fruit trees were found on the subject parcel. The following conditions of approval are included for the project:

1. A Tribally approved cultural resources monitor shall be present for all ground-disturbing activities associated with the pending CMMLUO permit at this location, on APN 222-071-030.

2. Additionally standard inadvertent discovery protocol which has been incorporated into the project as a condition of approval.

The proposed relocation area described in the THPO response has been updated to adhere to these concerns by condensing the proposed cultivation and disturbed area from 1 acre to 20,020 SF to be located more eastwardly from the original proposal location.

- g) A road evaluation report was not submitted by the applicant, however, a cannabis project located on the parcel directly to the south (APPS #12520/APN 222-071-014) was approved by the Planning Commission on September 5, 2019. Using the road evaluation report prepared for APPS#12520, after the end of the County-maintained road, there is approximately 1 mile of privately-maintained road (Segment 3 of the Road Evaluation Report) that is applicant/owner of APN 222-071-14 has commenced improvements based on recommendations from the California Department of Fish and Wildlife and Regional Water Board permitting requirements related to the Sprowel Creek enforcement effort.

Additional Conditions include requiring within one year from the permit effective date, the applicant shall take steps to form a Road Maintenance Association for the maintenance of the privately maintained portions of the access roads to the project site located on Assessor's Parcel Number (222-071-030). The necessary steps include sending notices to all road users of the requirement to form a Road Maintenance Association and conducting a meeting with the users of the road, especially those engaged in commercial cannabis activities to discuss formation of the Road Maintenance Association. The applicant shall provide evidence, including notice, meeting minutes, and the decision as to whether a Road Maintenance Association is being formed to show this effort. In the even the applicant is unable to coordinate formation of a Road Maintenance Association, the applicant shall pay fair-share cost for maintenance of the road to any road user engaged in maintaining the road.

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 Residential Agriculture (RA) land use designation. The proposed cannabis cultivation, an agricultural product, is within land planned and zoned for agricultural uses. The use is consistent with the use of Open Space land for managed production of resources. 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 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 43,560 square feet of existing cannabis on a parcel over 1 acre in the AE zone 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 30,000 square feet of outdoor cultivation on a 108-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 it was created by Notice of Lot Line Adjustment and Certificate of Subdivision Compliance, Instrument No. 2000-5816.

c) Water for irrigation is currently provided rain catchment.

d) A road evaluation report was not submitted by the applicant, however, a cannabis project located on the parcel directly to the

south (APPS #12520/APN 222-071-014) was approved by the Planning Commission on September 5, 2019. Using the road evaluation report prepared for APPS#12520, after the end of the County-maintained road, there is approximately 1 mile of privately-maintained road (Segment 3 of the Road Evaluation Report) that is applicant/owner of APN 222-071-14 has commenced improvements based on recommendations from the California Department of Fish and Wildlife and Regional Water Board permitting requirements related to the Sprowel Creek enforcement effort.

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- 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 30,000 square feet of 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 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 sized in the area.
- c) Irrigation water will come from rain catchment.
- 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 site was not included in the housing inventory of Humboldt County's 2019 Housing The approval of cannabis cultivation on this site will not conflict with the ability for the 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 92.74 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 and Special Permit for Humboldt Spirit, Inc., 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 July 20, 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