

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

Resolution Number: 24-

Record Number: PLN-12441-CUP

Assessor's Parcel Numbers: 223-061-041 and 223-074-008

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Panther Canyon Investments LLC Conditional Use Permit.

WHEREAS, Panther Canyon Investments LLC, submitted an application and evidence in support of approving a Conditional Use Permit for 29,200 square feet (SF) of existing outdoor cannabis cultivation, with 292,200 gallons irrigation water sourced from rainwater catchment and stored in tanks; 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 April 4th, 2024 and reviewed, considered, and discussed the application for the 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:** A Conditional Use Permit for 29,200 square feet of outdoor commercial cannabis cultivation. Estimated annual irrigation water usage is 290,000 gallons. Rainwater Catchment will provide 292,000 gallons of water to be stored in rigid tanks. Cannabis will be bucked and dried on site and sent to a licensed processing facility for trimming and packaging. Power is provided by a generator and applicant proposes transition to renewable energy. The proposal includes onsite relocation and restoration. Up to four workers will be onsite at peak season. Sanitary needs will be met by portable toilets. 22,950 square feet of cultivation area from eight scattered sites on the parcels will be relocated to a centralized location. Abandoned sites will be remediated and restored per project conditions and submitted restoration plan.

EVIDENCE: a) Project File: PLN-12441-CUP

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 Panther Canyon Investments LLC. 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 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) Prior to the resumption of cannabis cultivation activities, a Site management Plan will be prepared and filed with the State Water Resources Control Board. The project has been designed and conditioned such that surface water resources will not be impacted by water use for cannabis cultivation.

d) Per review of the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB) on December 16, 2023, there are no mapped special status species onsite. The project is located approximately 5.7 miles away from the nearest known Northern Spotted Owl (NSO) activity center. This activity center is on the other side of the Eel River and Highway 101. Given the distance from reported activity centers, and the geographic and man-made features between the project and the activity centers the project is unlikely to have any detrimental NSO impacts. The ongoing conditions of approval for the project include the following requirements: compliance with International Dark Sky Standards for lighting within the propagation greenhouse and ensuring that all noise levels do not go above 50 decibels at 100-feet or any tree line when noise generating equipment are in use on this activity center from permitted commercial cannabis cultivation sites in the vicinity. The application also includes a restoration on 22,950 square feet of cultivation area from eight scattered sites on the parcels will be relocated to an environmentally superior location.

- e) The project does not involve proposed or significant historic cutting of trees. The project involves the restoration of eight scattered sites to an environmentally superior location. The project will not result in a net loss of timberlands.
- f) There was Cultural Resources Investigation performed in the project's area of potential effect at the request of the Bear River Band of the Rohnerville Rancheria. An investigation was conducted by William Rich and Associates in January of 2022. The investigation concluded that no archaeological or historic-period cultural resources exist in the limits of the project area. The NWIC responded that their office has no record of any previous cultural resource studies for the project area but that the project area has the possibility of containing unrecorded archaeological site(s), and a study is recommended prior to commencement of project activities. The Bear River Band of the Rohnerville Rancheria reviewed the Cultural Resources Investigation and concurred with its findings. Ongoing conditions of approval are incorporated regarding the Inadvertent Discoveries Protocol to protect cultural resources and tribal cultural resources.
- g) As requested by Public Works, a Road Evaluation Report was prepared for the private road accessing the site. The report and concluded that the road segment is developed to the equivalent of a road category 4 standard.

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 Timber Production Zone (TPZ) 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 TPZ-Zone in which the site is located.

- EVIDENCE:**
- a) The TPZ zone is applied to areas of the County in which timber production and recreation is the desirable predominant uses and general agriculture is the secondary uses.
 - b) All general agricultural uses are principally permitted in the TPZ zone.
 - c) Humboldt County Code Section 314-55.4.8.2.2 allows cultivation of up to 43,560 SF of existing outdoor cannabis and up to 22,000 SF of existing mixed light cannabis cultivation on a parcel over 5 acres subject to approval of a Conditional Use Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application is for 29,200 SF of outdoor cultivation on a parcels totaling 160-acres in size.

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 (Section 314-55.4.8.2.2).
 - b) A Certificate of Subdivision Compliance, Document Number 2019-008915, recorded on May 23, 2019, confirmed the legality of the parcel that is enumerated with two assessor's parcel numbers, 223-061-041 and 223-074-008.
 - c) The total annual water usage for irrigation is estimated at 290,000 gallons (9.9 gal/sf/yr). The irrigation water source for the project is rainwater catchment. The project proposes using rain catchment off the existing 35' x 45' barn, a 120' x 30' Greenhouse, a 110' x 30' Greenhouse and fifty-five (55) rain collecting tanks.
 - d) The applicant submitted a Road Evaluation Report on May 4, 2018. The report states that the entire road segment is developed to the equivalent of road category 4 standard with appropriate maintenance as required in the conditions of approval.
 - 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 29,200square feet of outdoor 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 a privately maintained road. The Road Evaluation Report concluded that the entire road segment is developed to the functional equivalent of a road category 4 standard and 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 rainwater catchment with adequate storage to server the project.
 - 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:** 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 Lower Eel River Watershed, which under Resolution 18-43 is limited to 336 permits and 116 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 77 cultivation permits and the total approved acres would be 35.6 acres of cultivation.

- 8. 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.

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 Canyon Investments LLC., 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 **April 4, 2024**.

The motion was made by COMMISSIONER _____ and second by COMMISSIONER _____ and the following vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSENT: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
DECISION: Motion

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