

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

Resolution Number: 23-

Record Number: PLN-11426-CUP

Assessor's Parcel Number: 220-071-008

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Georgi Aleksandrov Conditional Use Permit and Special Permit request.

WHEREAS, Georgi Aleksandrov, submitted an application and evidence in support of approving a Conditional Use Permit for the continued operation of an existing 22,000 square foot (SF) mixed light cannabis cultivation including 2,200 SF of ancillary propagation. Irrigation water is sourced from a spring diversion. Existing available water storage is 62,000 gallons and the applicant will install an additional 102,000 gallons, for a total of 164,200 gallons of onsite water storage. Estimated annual water usage is 159,200 gallons. Drying and curing occurs onsite, with all other processing occurring offsite at a licensed processing or manufacturing facility. A maximum of four (4) people may be onsite during peak operations. Power is provided by two (2) generators, with a change to renewable energy by the end of 2026. A Special Permit for development in the Streamside Management Area (SMA) is also requested for continued use and maintenance of the existing point of diversion and relocation of two (2) existing water tanks outside of the required buffer; and

WHEREAS, the County as lead agency, prepared an Addendum to 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. The proposed project does not present substantial changes that would require major revisions to the 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 February 16, 2023, and reviewed, considered, and discussed the application for a 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:** The application is a Conditional Use Permit for the continued operation of an existing 22,000 square foot (SF) mixed light cannabis cultivation including 2,200 SF of ancillary propagation. Irrigation water is sourced from a spring diversion. Existing available water storage is 62,000 gallons and the applicant will install an additional 102,200 gallons for a total of 164,200 gallons of onsite water storage. Estimated annual water usage is 159,200 gallons. Drying and curing occurs onsite, with all other processing occurring offsite at a licensed processing or manufacturing facility. A maximum of four (4) people may be onsite during peak operations. Power is provided by two (2) generators, with a

change to renewable energy by the end of 2026. A Special Permit for development in the Streamside Management Area (SMA) is also requested for continued use and maintenance of the existing point of diversion and relocation of two (2) existing water tanks outside of the required buffer.

EVIDENCE: a) Project File: PLN-11426-CUP

2. FINDING: **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Planning Commission has considered the Addendum to and 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.

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 the CEQA Guidelines.
- c) A Water Resource Protection Plan (WRPP; WDID 1B170612CHUM) was prepared by Timberland Resource Consultants for the subject site in June 2017 and revised in April 2018 in compliance with the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R1-2015-0023, and a Notice of Applicability 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) California Department of Fish and Wildlife Resource Maps indicate there is the potential for Special Status species to occur within the project area. A review of the California Natural Diversity Database (CNDDDB) Spotted Owl Observation Database in March 2022 showed that Northern Spotted Owl habitat exists in the vicinity and the nearest positive sighting is located approximately 0.92 miles from the nearest cultivation area, with the nearest NSO activity center located approximately 1.43 away, respectively. Power at the site is provided by two (2) generators, with long-term plans for solar. Conditions of approval require the applicant to submit an energy use plan that describes the power demand for the project that includes a description of what power is required for (e.g., propagation, cultivation, and processing) and how much power is required on a monthly and annual basis. The energy plan shall also include a description of the generator(s) used to meet the power demand and state how the size of the generator is reasonable based on the power demand. The generator(s) used to support operations shall not be larger than required to meet operational needs. The plan shall also describe how the operation will transition to use of 80% renewable energy (e.g., solar, wind, and/or hydropower) sources

by the end of 2026.

Additional conditions of approval require light and noise attenuation measures be implemented, including requiring the combined noise generated from generators 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. The project is also conditioned to adhere to International Dark Sky Standards for any supplemental lighting used for security, mixed-light cultivation, or within the nursery area, refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife. Furthermore, the project is conditioned to require the applicant relocate two (2) existing water tanks outside of the required SMA buffer to a previously disturbed area without the use of heavy equipment to minimize potential impacts on the SMA. 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) A Less Than Three Acre Mitigation Plan was prepared by Timberland Resource Consultants in June 2018 to assess the timber conversion that occurred onsite and provide recommendations regarding remedial actions necessary to bring the conversion area into compliance with the provisions of the Forest Practice Act. As noted in the Report, 1.45 acres of land (0.85 acres for Cultivation Area #1 and 0.60 acres for Cultivation Area #2, referred to as Cultivation A and B in the Report) has been converted on the property, which is below the three-acre conversion exemption maximum. Conversion activities were noted to have occurred between 2005, 2009, 2010 and 2012, 2012 and 2014, and 2014 to 2016. The Report does not specify the amount of expansion that occurred after January 1, 2016, the CMMLUO environmental baseline date. Several recommendations are included in the Report to bring the project into compliance with the California Forest Practice Act and the California Forest Practice Rules, including treatment of slash, logs, and woody debris at both cultivation sites, and road drainage improvements between the residence and cultivation site, removal of a soil pile, and installation of erosion control measures. Additionally, treatment of the unstable fill, located in the southeastern corner of Cultivation Area #1, is recommended, including removal of all buried woody material (stumps, logs, limbs, chunks, etc.), in addition to reconstructing and thoroughly compacting the fill. A condition of approval has been included to require the applicant implement any remaining corrective actions identified the Report.

The project is conditioned also to require the property be evaluated to determine the amount of timber conversion that occurred prior to and after the CMMLUO baseline date of January 1, 2016, and any measures determined to be necessary by the RPF to mitigate for the unauthorized timber conversion shall be implemented. The applicant/owner will be responsible for mitigating the environmental impacts not analyzed in the environmental document prepared for the CMMLUO. Additionally, the

applicant/owner shall be required to re-stock an area onsite equivalent to the amount of area converted after the CMMLUO baseline date a rate of 3:1. The report shall include monitoring and reporting requiring a minimum of 3 years of monitoring at an 85% success rate and submission of annual monitoring reports at the time of the annual inspection.

- f) A Cultural Resources Investigation was prepared by Arsenault and Associates, not dated (date stamp received 12/23/19; on file and confidential), which noted no cultural resources were identified in the study area and concluded that the proposed project will not result in any adverse changes to historical or archaeological resources. The Report, as well as the Bear River Band of the Rohnerville Rancheria, recommended Inadvertent Discoveries Protocol, which has been included as an ongoing condition of approval.
- g) Access to the site is via a driveway off Goodman Ranch Road (a private road) via Ettersburg-Honeydew Road to Briceland Thorne Road to Redwood Drive to Highway 101. Ettersburg-Honeydew Road and Briceland Thorne Road are included on the list of County-maintained roads that meet (or are equivalent to) road Category 4 standards for cannabis projects. A Road Evaluation Report for an approximately 4.3-mile segment of Goodman Ranch Road, from Ettersburg-Honeydew Road to the subject property, was prepared in December 2019 by the former applicant, which indicates that the roadway meets a Category 4 road equivalent standard and is suitable for safe access to the site. Based on comments received from the Department of Public Works, Land Use Division in April 2022, the access road (Goodman Ranch Road) shall be improved to current standards for a commercial driveway, which includes paving the roadway for a minimum width of 20 feet and a length of 50 feet where it intersects the County road (Ettersburg-Honeydew Road). Additionally, private road intersections onto the County road shall be maintained in accordance with County Code section 341-1 (Sight Visibility Ordinance), both of which have been included as conditions of approval.

Additionally, due to the number of cultivation projects along Goodman Ranch Road, both approved and pending, conditions of approval require the applicant to take steps to form or join a Road Maintenance Association for the maintenance of Goodman Ranch Road. 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 event the applicant is unable to coordinate formation 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 Timberland (T) land use designation. The proposed cannabis cultivation, an agricultural product, is within land planned and zoned for timberland purposes, but which also allows for general agricultural use, 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 Timberland Production Zone (TPZ) zone in which the site is located.

EVIDENCE a) The Timberland Production Zone or TPZ zone is intended to provide standards and restrictions for the preservation of timberlands for growing and harvesting timber and is applied to areas of the County in which primary uses include the growing and harvesting of timber and timber production facilities. Compatible uses other than the direct growing, harvesting and processing of timber include grazing and other agricultural 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 square feet of existing outdoor cannabis and up to 22,000 square feet 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 22,000 square feet of mixed light cultivation on a 214-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 TPZ (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 in its current configuration as described in the Notice of Lot Line Adjustment and Certificate of Subdivision Compliance (Record No. 1993-11062-3), recorded April 26,1993.

c) Water for irrigation is provided by a spring diversion located north of Cultivation Area #2. Existing available water storage is 62,000 gallons in a series of hard-sided tanks, including three (3) 5,000-gallon and two (2)

1,000-gallon tanks, and two (2) 20,000-gallon bladders, which includes 5,000 gallons dedicated to fire suppression. A *Right to Divert and Use Water* (Registration ID H502559; Certificate No. H100338) has been issued for use with the spring diversion. The *Right to Divert and Use Water* allows for 0.23 acre-feet (or 74,946 gallons) of water to be diverted from the unnamed spring that is tributary to the Mattole River. Storage capacity cannot exceed 0.25 acre-feet (81,463 gallons). The existing available onsite water storage (62,000 gallons) is allowable as described the appropriative right. However, based on the information provided above, there is not currently sufficient water available to serve the annual water needs of the project. The appropriative right allows for 74,946 gallons to be diverted annually; however, with an annual water use of approximately 159,200 gallons, there is a deficiency of approximately 102,200 gallons, or approximately 64% of the project's water demand. In addition, the project is subject to forbearance, meaning no water can be diverted during the period of May 15-October 15 of each year. As a result, conditions of approval require the addition of storage allowed per the appropriative water right and rainwater catchment infrastructure and storage to ensure sufficient water supplies for the project. Specifically, approximately 17,946 gallons are needed to increase the amount of water storage for water right allowance. Additionally, approximately 84,254 additional gallons of water storage shall be added prior to the 2023 cultivation season and respective rainwater catchment infrastructure to existing onsite structures with a minimum surface area of 2,047 SF to capture rainwater to be utilized for irrigation of the cultivation. Should the applicant be unable to demonstrate the installation of the rainwater catchment infrastructure or additional water storage prior to 2023, the applicant is required to reduce the cultivation area to 793 SF, which can be supported by the existing water right until the rainwater catchment infrastructure and additional water storage is available for use.

A condition of approval also requires decommissioning and replacement of the two (2) existing 20,000-gallons bladders with hard-sided tanks equal to 40,000 gallons, which shall be placed in a previously disturbed area and outside of all required SMA buffers. Additional conditions of approval require the applicant to monitor water use from the spring diversion and rainwater catchment system (to be developed) annually to demonstrate there is sufficient water available to meet operational needs. The water utilized for cultivation is limited to the use of the spring diversion (limited to a maximum of 74,946 gallons annually), rainwater catchment, and amount of water available in storage tanks.

- d) Access to the site is via a driveway off Goodman Ranch Road (a private road) via Ettersburg-Honeydew Road to Briceland Thorne Road to Redwood Drive to Highway 101. Ettersburg-Honeydew Road and Briceland Thorne Road are included on the list of County-maintained roads that meet (or are equivalent to) road Category 4 standards for cannabis projects. A Road Evaluation Report for an approximately 4.3-mile segment of Goodman Ranch Road, from Ettersburg-Honeydew Road to the subject property, was prepared in December 2019 by the former

applicant, which indicates that the roadway meets a Category 4 road equivalent standard and is adequate for the proposed use. In compliance with Department of Public Works, Land Use Division comments received in April 2022, the access road (Goodman Ranch Road) shall be improved to current standards for a commercial driveway. Additionally, private road intersections onto the County road shall be maintained in accordance with County Code section 341-1 (Sight Visibility Ordinance), both of which have been included as conditions of approval.

- e) The slope of the land where cannabis will be cultivated is less than 5%, as described in the Water Resource Protection Plan (WRPP), prepared by Timberland Resource Consultants in June 2017 and revised in April 2018.
- f) A Less Than Three Acre Mitigation Plan was prepared by Timberland Resource Consultants in June 2018 to assess the timber conversion that occurred onsite and provide recommendations regarding remedial actions necessary to bring the conversion area into compliance with the provisions of the Forest Practice Act. As noted in the Report, 1.45 acres of land (0.85 acres for Cultivation Area #1 and 0.60 acres for Cultivation Area #2, referred to as Cultivation A and B in the Report) has been converted on the property, which is below the three-acre conversion exemption maximum. Conversion activities were noted to have occurred between 2005, 2009, 2010 and 2012, 2012 and 2014, and 2014 to 2016. The Report does not specify the amount of expansion that occurred after January 1, 2016, the CMMLUO environmental baseline date. It is further noted that slash, logs, and woody debris from past conversion operations were observed at both cultivation sites.

Several recommendations are included in the Report to bring the project into compliance with the California Forest Practice Act and the California Forest Practice Rules. At both cultivation areas, treatment of slash, logs, and woody debris is required. In addition, at Cultivation Area #1, it is recommended that all proposed road drainage improvements between the residence and cultivation site, as specified in the Water Resource Protection Plan (described under “Water Resources”), as well as removal of the soil pile and installation of a minimum of three straw waddles across the drainage path, occur. Additionally, treatment of the unstable fill, located in the southeastern corner of Cultivation Area #1, is recommended, including removal of all buried woody material (stumps, logs, limbs, chunks, etc.), in addition to reconstructing and thoroughly compacting the fill. As the timber conversion that occurred onsite occurred prior to the CMMLUO baseline date, no restocking is required. No additional tree removal is proposed or authorized by this permit. A condition of approval has been included to require the applicant implement any remaining corrective actions identified the Report.

In addition, the project is conditioned to require the property be evaluated to determine the amount of timber conversion that occurred prior to and after the CMMLUO baseline date of January 1, 2016, and any measures determined to be necessary by the RPF to mitigate for the unauthorized timber conversion shall be implemented. The applicant/owner will be

responsible for mitigating the environmental impacts not analyzed in the environmental document prepared for the CMMLUO. Additionally, the applicant/owner shall be required to re-stock an area onsite equivalent to the amount of area converted after the CMMLUO baseline date a rate of 3:1. The report shall include monitoring and reporting requiring a minimum of 3 years of monitoring at an 85% success rate and submission of annual monitoring reports at the time of the annual inspection.

- 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 22,000 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 non-County maintained access road (Goodman Ranch Road) to be improved to current standards for a commercial driveway and maintain private road intersections onto the County road in accordance with County Code section 341-1 (Sight Visibility Ordinance), which have been included as conditions of approval. Additionally, due to the number of cultivation projects along Goodman Ranch Road, both approved and pending, conditions of approval require the applicant to take steps to form or join a Road Maintenance Association for the maintenance of Goodman Ranch Road.
- b) The site is in a rural part of the County where the typical parcel size is over 20 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 will come from a spring diversion and rainwater catchment. As the project requires more water than what is authorized for diversion under the appropriative water right, conditions of approval require the addition of rainwater catchment infrastructure to existing structures with a minimum surface area of 2,047 SF and an additional 84,254 gallons of water storage to ensure a sufficient supply of water is available to serve the project. Should the applicant be unable to demonstrate installation of the rainwater catchment infrastructure or additional water storage prior to 2023, the applicant is required to reduce

the cultivation area to 10,424 SF, which can be supported by the existing water right until the rainwater catchment infrastructure and additional water storage is available for use.

- 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

To provide minimum standards pertaining to the use and development of land located within Streamside Management Areas (SMAs) and other wet areas (OWA) to implement the County's Open Space Element of the General Plan.

EVIDENCE

- a) As shown on the Site Plan, two (2) 1,000-gallon water tanks, located north of Cultivation Area #2, are shown to be located within a 50-foot SMA buffer. As a condition of approval, these two tanks shall be relocated outside of the required SMA to a previously disturbed area without the use of heavy machinery. In addition, conditions of approval require the applicant to adhere to and implement the projects and recommendations contained in the Final SAA and provide evidence to the Planning Department that the projects included in the Final SAA are completed to the satisfaction of CDFW. Conditions of approval also require the applicant to adhere to the terms and conditions of the Right to Use and Divert Water issued by the State Water Resources Control Board (SWRCB). By implementing permit conditions from the SWRCB and CDFW, impacts to the SMA are minimized.

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 and is currently developed with one existing residence. The approval of cannabis cultivation on this parcel will not conflict with the ability for the residence to continue to be utilized on this parcel.

9. 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 Cape Mendocino Planning Watershed, which under Resolution 18-43 is limited to 650 permits and 223 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 234 permits and the total approved acres would be 82.23 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 Permits for Georgi Aleksandrov 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 February 16, 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