

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

**Resolution Number: 24-**

**Record Number: PLN-12171-CUP**

**Assessor's Parcel Number: 217-271-002**

**Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the MIB, LLC Conditional Use Permit.**

**WHEREAS, MIB, LLC** applied for a Conditional Use Permit and a Special Permit (PLN-11543-CUP) for a maximum of 33,000 square feet of existing outdoor cannabis cultivation; and

**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 **November 7, 2024**, and reviewed, considered, and discussed the application for the requested 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:**                      **Project Description:** A Conditional Use Permit for 33,000 square feet of existing outdoor commercial cannabis cultivation with 3,160 square feet of ancillary propagation. Estimated annual irrigation water usage of 200,000 gallons will be sourced from rainwater catchment and a groundwater well. Water storage is provided by a 250,000 gallon pond. Timber conversion did occur on site after 2016 and revegetation is a required element of the project. The site is served by a restroom connected to an onsite wastewater treatment system. Processing, including trimming, will occur onsite. Electricity is provided by solar power with a generator reserved for emergencies only. A Special Permit is included because the project is within 600 feet of Public Lands managed for open space.

- EVIDENCE:**            a) Project File: PLN-11543-CUP

**2. FINDING:**

**CEQA.** The requirements of the California Environmental Quality Act have been met. 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, prepared for the project pursuant to Section 15164 of the CEQA guidelines.

**EVIDENCE:**

- a) Addendum prepared for the proposed project (**Attachment 3**).
- 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) The project has demonstrated a less than significant impact to Hydrology and Water Resources by demonstrating compliance with the State Water Board Cannabis General Order for Waste Discharge, providing a copy of the Notice of Applicability and a Site Management Plan.
- d) The project has demonstrated a less than significant impact to Biological Resources. Coordination with CDFW and review of the CNDDDB and the County's NSO Activity Center data provided evidence that, with the appropriate mitigation, no special status species will be affected.
- e) The project has demonstrated a less than significant impact to Access. A Road Evaluation Report conducted by an engineer found the access roads to be functionally appropriate for the expected traffic.
- f) The project has been conditioned to mitigate the historic timber conversion. Two timberland conversion evaluation reports were submitted along with a timberland restoration plan. The cultivation to be approved will not result in future conversion, and the project is conditioned to restock the equivalent area of timber removed after 2015.
- g) The County consulted tribes whose aboriginal territories existed on the subject parcel and a Cultural Resources Evaluation was prepared

by an Archaeologist. The Bear River Band reviewed and approved of the study and suggested in the standard inadvertent discovery protocol be a condition of approval.

### **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 consistent with the use of Open Space land for managed production of resources. The use of an RA designated parcel for commercial agriculture is consistent with the Open Space Plan and Open Space Action Program. Therefore, the project is consistent with and complementary to the Open Space Plan and its Open Space Action Program.
  - b) The proposed project is not located within any riparian setbacks or streamside management areas.

**4. FINDING:** The proposed development is consistent with the purposes of the existing Timber Production Zone (TPZ) in which the site is located.

- EVIDENCE:**
- a) General agriculture is a use type permitted in the Unclassified (U) zoning designation. The proposed cannabis cultivation, an agricultural product, is consistent with the definition of the General Agriculture Use Type contained in HCC §314-170.1 and is therefore permitted in the (U) zone.
  - b) CMMLUO section 314-55.4.8.2.2 allows cultivation of up to 43,560 SF of existing outdoor cannabis on Unclassified parcels with an area five acres and greater, subject to the approval of a Conditional Use Permit and a determination that the cultivation was in existence prior to January 1, 2016. Application PLN-11543-CUP is for a maximum of 33,000 square feet (SF) of existing outdoor cannabis cultivation and with a propagation nursery of 3,160 SF or 10 percent of the total cultivation area. Cultivation occurs on a 46-acre parcel and includes a Cultivation Area Verification prepared by the County and is therefore consistent with the Humboldt County Code.

**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 Unclassified (U), (HCC 314-55.4.8.2.2).
- b) The parcel was created in compliance with all applicable state and local subdivision regulations. The parcel was created by an approved subdivision in 1972.
- c) The project will obtain water from a permitted well and from a rainwater catchment system, both eligible water sources. The applicant has provided a Well Completion Report.
- d) A Road Evaluation Report conducted by an engineer found the access roads to be functionally appropriate for the expected traffic.
- e) The slope of the land where cannabis will be cultivated is greater than 15%. Because this is an existing cultivation site, the CMMLUO does not restrict cultivation on slopes greater than 15%.
- f) Timberland was converted to support the cultivation of cannabis. Approximately 2.47 acres of timberland was converted to cultivation area prior to 2016 and an additional .24 acres were converted between 2020 and 2022. A Timberland Conversion Evaluation Report (TCER) and a supplementary report were prepared by Timberland Resource Consultants to address unpermitted conversion (Attachments 3).

The supplementary report addressed the timber removal and conversion which occurred between 2020 and 2022. TRC's RPF identified three areas which had been harvested since the original TCER, and found a total of 1.11 acres of timber removed, with .24 acres converted from timberland.

Pursuant to section 314-55.4.10(j) of the CMMLUO, for existing operations (defined as cultivation activities operating prior to January 1, 2026) occupying sites created through prior unauthorized conversion of timberland, the applicant shall secure the services of a registered professional forester to evaluate the conditions and conversion history for the property and provide a written report to the Planning Division containing the RPF's recommendations as to remedial actions necessary to bring the conversion area into compliance with provisions of the Forest Practice Act. If CALFire takes no action within ten days of being informed of the RPF report, the report's recommendations become final. As such, the applicant is conditioned to follow the RPF's recommendations made in both reports.

The first report recommends treatment of debris at converted sites, removal of fill materials placed in watercourses, establishment of proper drainage of the graded flat near cultivation site 2, removal and treatment of woody material placed in the watercourse near cultivation site 2, and removal of fill materials from the watercourse near cultivation site 3 (Condition A12).

The second report recommends the landowner replant Cultivation Site 3 (0.3 acres) to mitigate the minor loss of timber at Greenhouse #7 and Greenhouse #8 and that the applicant remove any man made/artificial material except solar panels from the Tree Removal Area and avoid use and/or development of the area and allow it to naturally regenerate without further disturbance (Condition 12).

The applicant shall adhere and implement all recommended actions and reforest the project site as described in the Timber Restocking Plan (Attachment 4E).

- g) 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, more than 300 feet from any offsite residence, and more than 600 feet from any school, church, or Tribal Cultural Resource, but is less than 600 feet from public lands managed for open space. This reduced setback will be permitted with a Special Permit. The Bureau of Land Management, the agency who manages the concerned public lands, were contacted for comment but no comment was received. CDFW addressed the setback and said the proposed project may have significant adverse effect on biological resources managed on that land. They recommended a series of ongoing requirements (Ongoing Requirements x-x) to reduce the disturbance to wildlife.
- h) The primary source of electrical power is a 3.8kW solar array for both domestic and agricultural uses, a renewable power source. For emergency and backup purposes, a 25k MQ Power Whisper generator is also on site to use when needed. The generator will be housed in a generator shed for noise attenuation when in use.
- i) The noise produced by the generator will not be audible by humans from neighboring residences. The combined decibel level for all noise sources, including generators, will not harass Marbled Murrelet and will be no more than 60 decibels at the property line **(Ongoing Requirement 1)**.

**6. FINDING:** The cultivation of 33,000 square feet (SF) of outdoor 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 a road that has been found to safely accommodate the amount of traffic generated by the proposed projects following improvements recommended by a qualified engineer (**Attachment 4G**).
  - 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 size in the area.
  - c) Irrigation water will come from a permitted well and a rainwater catchment system, both eligible water sources. The well is unlikely to affect public trust resources.
  - 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.
  - e) The operator will take measures to ensure that little to no light escapes from the artificially illuminated cultivation activities.

**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 it is currently developed with one housing unit. The approval of cannabis cultivation on this parcel will not conflict with the operation or use of the existing residential units 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:** a) The project parcel is located in the South Fork Eel Planning Watershed. The permit cap in that watershed is 730 permits, and the acre cap is 251 acres. According to the County's most recent records, there are 306 permits approved, making up a total cultivated area of 84.39 acres. The approval of this permit would cause there to be 307 permits approved and 84.93 acres cultivated.

**9. FINDING:** The use of the well is unlikely to have any adverse impacts on public trust resources.

**EVIDENCE:** a) The well is drilled to a depth of 270 feet and is screened intermittently between 120 and 260 feet. Rock strata in the screened area includes dry blueshale stone and water bearing basalt. According to the Humboldt County WebGIS and the State Water Board Stream Classification Finder, there are five watercourses located within 1,000 feet of the well. The surface water features nearest to the well are a series of unnamed intermittent watercourses 500-600 feet to the north which drain to Salmon Creek. The top of all of these watercourses are located at the same elevation as the bottom of the well; all of the waterways drain away from the location of the well. The intermittent nature of the waterways and their separation from the location of the well make it possible to assume none of the water courses are close enough to the well to possibly have any direct connection. This watercourse drains into Salmon Creek, which is an important resource for fisheries and recreational opportunities. Salmon Creek contains important habitat for fish. Salmon Creek is more than 1,500 feet away from the well. The water bearing unit of the well is over 300 feet above the elevation of the creek at its nearest point and therefore any direct hydraulic connection between the well and the creek is unlikely. Given the fact that the well is unlikely to have a direct connection, the use of the well for irrigation purposes will not cause any significant adverse impact to Salmon Creek, or otherwise substantially impair the public trust uses or values related to commerce, navigation, fisheries, public access, preservation of trust lands in their natural state, or water-related-recreation and other activities.

**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 MIB, LLC subject to the conditions of approval attached hereto as Attachment 1.

Adopted after review and consideration of all the evidence on **November 7, 2024**.

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 H. 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.

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John H. Ford, Director  
Planning and Building Department