

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

Resolution Number: 24-

Record Number: PLN-12088-SP

Assessor's Parcel Number: 108-026-006

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

WHEREAS, CannaDreams, LLC submitted an application and evidence in support of approving a Special Permit for the continued operation of an existing 9,500 square foot (SF) outdoor cultivation utilizing light deprivation techniques and 950 SF of ancillary propagation, a Special Permit for a reduction of public lands setbacks, and a Special Permit for encroachment into the Streamside Management Area for diversion and a hydroelectric system; and

WHEREAS, the lead agency prepared an Addendum to the Mitigated Negative Declaration (MND) prepared for the Commercial Medical Land Use Ordinance (CMMLUO) adopted by the Humboldt County Board of Supervisors on January 26, 2016, and the Planning Commission considered the Addendum and the MND. 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 December 5, 2024 and reviewed, considered, and discussed the application for Special Permits, 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 the continued operation of an existing cannabis cultivation site consisting of 9,500 square feet of outdoor cannabis cultivation in greenhouses and 950 square feet of ancillary nursery space, a Special Permit to reduce the setback to BLM public land, and a Special Permit for reduction of the Streamside Management Area setback to allow for a hydroelectric facility on the onsite stream and for the point of diversion. Irrigation water is sourced from a point of diversion and is subject to forbearance. There will be 171,000 gallons of water storage on the parcel designated for cannabis irrigation and 6,500 gallons reserved

for fire suppression. The applicant's estimated annual water use is approximately 88,700 gallons. Drying will occur onsite and other processing will occur offsite at a licensed third-party facility. Power is provided by a solar array with a generator used to supply supplemental power. There will be two employees onsite at peak.

EVIDENCE: a) Project File: PLN-12088-SP

2. FINDING: **CEQA.** The project complies with the requirements of the California Environmental Quality Act. The Humboldt County Planning Commission has considered the Mitigated Negative Declaration previously adopted for the Commercial Medical Marijuana Land Use Ordinance as well as the Addendum to the Mitigated Negative Declaration that was prepared for the project pursuant to Section 15164 of the CEQA guidelines.

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) A Water Resource Protection Plan (WRPP) prepared by Pacific Watershed Associates in April 2017 for the subject site was submitted by the applicant to show compliance with State Water Board requirements. The assessments and recommendations of the WRPP were incorporated into a Site Management Plan, which was submitted April 17, 2019. 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 maintaining enrollment in the Cannabis General Order for the life of the project.
- d) A Lake and Streambed Alteration Agreement (LSAA) was approved by the California Department of Fish and Wildlife (CDFW) on September 16, 2019, for the continued operation of the points of diversion and stream crossings onsite, but it expired September 16, 2024. The project is conditioned to obtain a new LSAA and comply with the terms therein.

- e) Per review of CDFW's California Natural Diversity Database (CNDDDB) a portion of the property, including the project area, is within a mapped occurrence of a special status species. That mapping is accurate to roughly three-fifths of a mile. The nearest Northern Spotted Owl (NSO) activity center is located approximately 0.8 miles from the cultivation area, and the nearest Marbled murrelet habitat is approximately 88 feet from the nearest cultivation area. Power at the site is provided by a proposed solar array and hydroelectric system, with a generator proposed as a supplemental power supply.

A Preliminary Biological Resource Report (Biological Report) was prepared by Olofson Environmental, Inc. and Emerald Hills Environmental, LLC in March 2019 to assess the suitability of the site to support special-status plant and animal species and evaluate potential impacts on sensitive biological resources associated with commercial cannabis cultivation. Nineteen plant and animal species have potential habitat in the vicinity of the project, however as the project proposes no new grading, disturbance to natural vegetation, or activities outside of the existing footprint, the report concluded the project would have low potential for negative impacts on special status plants and special status wildlife species. If the project is modified or expanded in the future, it is recommended that seasonally appropriate surveys be conducted prior to any new construction, ground-disturbance, or vegetation removal, which has been included as an ongoing condition of approval.

Conditions of approval will require noise to be 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. Additional conditions of approval require the applicant to implement light attenuation measures, refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife. 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.

- f) A Road Evaluation Report concludes the route leading to the subject parcel is partially developed to the equivalent of a category 4 road standard and partially requires improvements to meet the equivalent of a category 4 road standard. The project is conditioned to improve the road according to the engineer recommendations in the Road Evaluation Report.

- g) The cultivation of cannabis will not result in the net conversion of timberland. Review of aerial imagery dating back to 2004 indicates the site contained existing open areas along the northern and southeastern portions of the property; however, it appears that timber was removed from the site between 2009 and 2015 to accommodate cannabis cultivation infrastructure.

While timber removal prior to 2015 is considered baseline conditions for the purposes of the CMMLUO and CEQA, the applicant has been conditioned to submit a Less than Three Acre Conversion Evaluation prepared by a Registered Professional Forester (RPF) that evaluates the conversion areas on the subject parcel, and the report shall include recommendations to bring the site into compliance with the Forest Practices Rules as applicable.

No additional tree removal is proposed or authorized by this permit.

- h) The project proposal was sent to the Intertribal Sinkyone Wilderness Council and the Bear River Band of the Rohnerville Rancheria, who recommended the project adhere to standard inadvertent discovery protocol. The project has been conditioned to include standard inadvertent discovery protocol.

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) General agriculture is a use type permitted in the Residential Agriculture (RA-160)) 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 Unclassified (U) zone in which the site is located.

EVIDENCE: a) General agricultural uses are principally permitted in the U zone.

- b) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 10,000 square feet of existing outdoor cannabis cultivation and up to 10,000 square feet of existing mixed-light commercial cannabis on a parcel over 1 acre subject to approval of a Special Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for 9,500 square feet of cultivation on an 83.5 acre parcel is consistent with this and with the cultivation area verification prepared by staff.
- c) All cultivation is at least 30 feet from all property lines and there are no public parks, churches, school bus stops or other sensitive receptors within 600 feet of the cultivation areas.

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 U (HCC 314-55.4.8.2.2).
 - b) The parcel was created in compliance with all applicable state and local subdivision regulations. The subject parcel has been determined to be one legal parcel by creation deed 376-114 recorded on January 25, 1956.
 - c) The project will obtain water from an existing point of diversion for which the applicant has provided a valid water right in appropriate amounts.
 - d) A Road Evaluation Report found that the 3.15 mile segment of Kings Peak Road leading to the private access road does not presently meet the Category 4 standard or an equivalent. By following the engineer recommendations of the report, the road segment will be able to accommodate the cumulative increased traffic of the project and all known cannabis projects utilizing the road. The remainder of Kings Peak Road, from the end of that segment to the intersection with Shelter Cove Road, is developed to the equivalent of a Category 4 standard.
 - e) The slope of the land where existing cannabis will be cultivated is potentially 15% to 30% and 30% to 50% on existing flats. No new grading will occur and, as existing cultivation that is not being relocated, the maximum slopes referenced in 314-55.4.8.2.1 of the

CMMLUO and 314-55.4.6.4.1 of Humboldt County Code are not applicable to the permit.

- f) The continued cultivation of cannabis will not result in the net conversion of timberland.
- g) The location of the cultivation complies with most 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. The parcel is within 600 feet of public lands managed for open space and wildlife habitat purposes, however, which may be permitted with a Special Permit. The conditions on the project should prevent any impact to the resources on these public lands.

6. FINDING: The continued cultivation of 9,500 square feet of existing 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, if the recommendations from the engineer in the Road Evaluation are followed, will be able to safely accommodate the amount of traffic generated by the 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 sizes in the area.
 - c) Irrigation water is sourced from a point of diversion and is subject to forbearance.

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 an existing residence onsite. The approval of cannabis cultivation on this parcel will not conflict with the residential use of the existing residence.

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 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 231 cultivation permits and the total approved acres would be 81 acres of cultivation.

FINDING FOR REDUCTION OF SENSITIVE RECEPTOR SETBACK

9. FINDING: In accordance with Humboldt County Code Section 314-55.4.6.4.4.1.6, advance notice has been given to the person or agency responsible for managing or supervising the management of the publicly owned lands within 600 feet of the project as part of the special permit.

EVIDENCE: a) The United States of America owns the surrounding properties, for which the Bureau of Land Management (BLM) is the managing agency, and the project was referred to them on June 15, 2023. BLM requested that the applicant obtain a legal right-of-way so the applicant would be able to legally access the subject property.

b) The applicant provided documentation of the right of way grant which had been signed by the Bureau of Land Management and the applicant on June 27, 2024.

FINDING FOR REDUCTION OF SMA SETBACK

10. FINDING: In accordance with Humboldt County Code Section 314-61.1.7.6.3, the reduction will not significantly affect the biological resources of the streamside management area (SMA) on the property.

EVIDENCE: a) The reduction of the streamside management area will not significantly affect the biological resources of said SMA because it is dependent on permitting by CDFW and will be required to

continuously meet CDFW's requirements to protect biological resources, if approved by CDFW.

- b) The hydroelectric system would be installed on an intermittent stream which is tributary to North Fork Bear Creek, sourced from a spring, and does not provide connectivity for aquatic wildlife, so it should not significantly affect the biological resources of the SMA on the property.
- c) The continued use and maintenance of the point of diversion will not significantly affect the biological resources of the SMA because initial disturbance is limited, the diversion is subject to an existing LSAA with CDFW, the watercourse has a water right, and diversion quantity is reported to and limited by the State Water Resources Control Board.
- d) The project is subject to the mitigations described in Section 314-61.1.10 of the Humboldt County Code, the mitigations are incorporated by reference in the conditions of approval, and the mitigations applicable to the subject development are described explicitly in the conditions of approval.

FINDING FOR PUBLIC TRUST RESOURCES

11. FINDING:

The use of the spring for irrigation purposes will not have any adverse impacts on any public trust resources.

EVIDENCE:

- a) The spring that this project diverts from provides water to a Class II watercourse which is tributary to North Fork Bear Creek, which itself is a tributary to Bear Creek, a tributary to Mattole River. These streams provide water to support the health of this River. Bear Creek provides habitat for sensitive aquatic species including Coastal Rainbow Trout. Class II streams, however, have limited value as fisheries and generally occur upstream of migration barriers, or have other habitat features that prevent their use by migratory fish. The Mattole River is used for recreation and supplies water for agricultural, public, and industrial uses. Mattole River consists of a combination of navigable sections and whitewater rapids.
- b) The watercourse has a water right and is pumped to storage for use during the forbearance period. The applicant reports irrigation water usage and diversion to the State Water Resources Control Board (SWRCB) annually and is conditioned to have a Streambed Alteration

Agreement (LSAA) established with the California Department of Fish and Wildlife (CDFW). The SWRCB prohibits diversion for cannabis activities during the forbearance period of April 1 through October 31 to protect water bodies during dry seasons. By performing the improvements required by the LSAA, forbearing according to SWRCB's requirements, and adhering to the standards in the Site Management Plan, the project's water use should have a less than significant impact on the Public Trust resources.

- c) The proposed hydroelectric system would be installed on an intermittent stream that is tributary to North Fork Creek and is sourced from a spring. The stream does not provide connectivity for aquatic wildlife and there will be no net loss of water removed from the stream for the hydroelectric system, therefore the hydroelectric system should have no impact on the Public Trust resources.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Zoning Administrator does hereby:

- Adopt the findings set forth in this resolution; and
- Conditionally approves the Special Permit for CannaDreams, LLC subject to the conditions of approval attached hereto as Attachment 1.

Adopted after review and consideration of all the evidence on **December 5, 2024**.

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