

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

Resolution Number: 24-

Record Number: PLN-11915-CUP

Assessor's Parcel Number: 216-317-006

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Punta Canna, LLC, Conditional Use Permit, Special Permit and Lot Line Adjustment request and recommending that the Board of Supervisors approve the Zone Reclassification and Land Conservation Contract Amendment.

WHEREAS, Punta Canna, LLC, submitted an application and evidence in support of approving a Conditional Use Permit for 19,500 square feet (SF) of existing cultivation utilizing light deprivation techniques within 21 greenhouse structures, with 2,000 SF of ancillary propagation proposed. Irrigation water is sourced from a point of diversion located on APN 216-317-004. Existing available water storage is 206,000 gallons in a series of hard-sided tanks. Estimated annual water usage is 228,096 gallons. Drying will occur in a proposed 2,160 square-foot drying building and processing will occur within a proposed 1,140 square-foot structure. A maximum of ten (10) employees may be onsite during peak operations. Power is provided by a 4,000-watt solar array which controls the fans in the greenhouses and supplies the residence with power. A Special Permit is also requested for development within the Streamside Management Area (SMA) for continued use and maintenance of the point of diversion infrastructure; and

WHEREAS, Punta Canna, LLC and Chris and Harold Prior submitted an application and evidence in support of approving a Zone Reclassification from Unclassified to AE-B5(160) and from AEB5(160) to Unclassified in association with a Lot Line adjustment and Williamson Act contract amendment; and

WHEREAS, the County Planning Division, the lead agency, prepared an Addendum to the Final 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. 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 Williamson Act Contract Amendment and Zone Reclassification are exempt from environmental review pursuant to Section 15317 of the CEQA Guidelines (Open Space Contracts); 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 a Conditional Use Permit and Special Permit, and Lot Line Adjustment, as well as the Zone Reclassification Williamson Act contract amendment, 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 19,500 square feet (SF) of existing cultivation utilizing light deprivation techniques within 21 green house structures, with 2,000 SF of ancillary propagation proposed. Irrigation water is sourced from a point of diversion located on APN 216-317-004. Existing available water storage is 206,000 gallons in a series of hard-sided tanks. Estimated annual water usage is 228,096 gallons. Drying will occur in a proposed 2,160 square-foot drying building and processing will occur within a proposed 1,140 square-foot structure. A maximum of ten (10) employees may be onsite during peak operations. Power is provided by a 4,000-watt solar array which controls the fans in the greenhouses and supplies the residence with power. A Special Permit is also requested for development within the Streamside Management Area (SMA) for continued use and maintenance of the point of diversion infrastructure. The application includes a Lot Line Adjustment with an equal exchange of 2.40 acres and a Zone Reclassification from Unclassified to Agriculture Exclusive with a B5(160) combining zone to adjust the zone boundaries concurrent with the new lot lines. A Land Conservation Contract is also proposed to amend the Land Conservation Contract concurrent with the adjusted lot line.

EVIDENCE: a) Project File: PLN-11915-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. The Zone Reclassification and Land Conservation Contract amendment is exempt from Environmental Review Pursuant to Section 15317 of the CEQA Guidelines (Open Space Contracts).

- 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 Site Management Plan (SMP; WDID: 1b170089CHUM) was created for the project by NorthPoint Consulting Group (NorthPoint) dated August 2018 (Attachment 3) that conforms to the requirements of a SMP under Order No. WQ-2017-2023-DWQ and those of a Water Resource Protection Plan (WRPP) in compliance with the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R1-2015-0023. Conditions of approval require the applicant to comply with the State Water Resources Control Board Cannabis Cultivation Policy, which includes adherence to and implementation of a Site Management Plan.
 - d) California Department of Fish and Wildlife Resource Maps indicate there is the potential for one mapped sensitive species onsite *Howellia auatilis* however this species was removed from the List of Endangered and Threatened Plants effective July 16, 2021. The nearest Northern Spotted Owl (NSO) positive sighting is located approximately 1.06 miles north of the nearest cultivation area, with the nearest NSO activity center mapped to a positive observation is located approximately 1.77 miles away, respectively. Power is supplied by a 4kwt solar panel array that powers fans in the greenhouses and supplies the onsite residence. The applicant plans to transition to include Pacific Gas and Electric (PG&E) by (2027). Conditions of approval will require noise to 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, additionally all lighting will be designed and located so that direct rays are confined to the property as described by the International Dark Sky Association Standards. Conditions of approval also require the applicant to remain in good-standing with CDFW and adhere to all requirements of the Final Streamside Alteration Agreement issued to the Applicant.

- e) The project is also conditioned to adhere to and implement the Remediation plan prepared by NorthPoint Consulting Group to address violations noted in the Notice of Violation dated July 17, 2020. The remediation plan describes the remediation required on three separate sites owned by the applicant. Remediation efforts required of the project site include the removal of non-organic waste and woody debris, disturbed areas will be revegetated, and any non-native species. Additionally, the creation of a sediment basin is proposed to act as a further catchment mechanism to ensure additional materials are not transported to waters of the State.
- f) A review of aerial (Satellite) imagery from 2014 through 2021 through the Humboldt County Web GIS portal which provides a series of National Agriculture Imagery Program (NAIP) does not provide any discernible evidence that timber conversion has occurred onsite for cannabis cultivation activities. No timber conversion activities are planned or proposed as a part of this project. No loss of timber is expected through the proposed and continued use of this project as designed.
- g) A Cultural Resources Investigation was prepared by Archaeological Research and Supply Company August 2019 (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.
- h) Access to the site is via a private access road 0.17 miles in length via Alderpoint Road a county-maintained category 4 or

equivalent road. The application submitted a Road Evaluation Report form with a Route map and photos, dated August 2018 prepared by NorthPoint Consulting Group for the private drive not maintained by the County (Attachment 3). The Road Evaluation Report describes the private access road as meeting a Category 4 road equivalent standard and is adequate for the proposed use. Per comments received from the Department of Public Works, Land Use Divisions, dated May 2019, any existing or proposed non-county maintained access roads that will serve as access for the proposed project that connect to a County-maintained road shall be improved to current standards for a commercial driveway and that private road intersections onto the County road shall be maintained in accordance with County Code section 341-1 (Sight Visibility Ordinance), including the relocation of gates or fences out of the County right of way, which have been included as conditions of approval.

- i) Relative to the Zone Reclassification and Land Conservation Contract Amendment - Section 15317 of the CEQA Guidelines.

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 and intensive agriculture are both allowable use types in the Agriculture Grazing (AG) land use designation. The AG designation is also an Open Space Designation under the County Open Space Plan. 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) The Unclassified (U) zone allows for general agriculture as a

principally permitted use.

- b) All general agricultural uses are principally permitted in the U and AE zones.
- 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 19,500 square feet of outdoor cultivation utilizing light deprivation techniques, on a 17.86-acre parcel is consistent with this and with the cultivation area verification conducted by the County Planning and Building Department.

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, as it was created and described on Parcel Map 654, Book 005, Parcel map Page 143, Lot 2.
 - c) The applicant originally submitted an application for 19,500 SF of existing outdoor cultivation, which included an existing cannabis cultivation area that was believed to be wholly located on APN 216-317-006. However, a review of the subject site performed by Planning staff found that only 16,500 SF of the cultivation occurred on APN 216-317-006, with an additional 5,325 SF of cultivation occurring on the northern property, identified as APN 216-317-004, in proximity to the shared property boundary line between these two properties. The total cultivation area of 19,500 SF as described for APN 216-317-006 is dependent on the completion of the proposed lot line adjustment. Until this process has been completed, the amount of cultivation allowed by this application will be limited to the existing cultivation amount of 16,130 as approved by the applicant's interim permit.
 - d) The nearest Northern Spotted Owl (NSO) activity center is located approximately 1,350 feet away, and on the other side of

Alderpoint Road, a fairly major collector road, from the property. Power is supplied by a 4kw solar panel array that powers fans in the greenhouses and supplies the onsite residence and the project is conditioned to transition to renewable on-site energy entirely by January 1, 2026. All lighting will be designed and located so that direct rays are confined to the property.

- e) Water for irrigation is provided by an onsite point of diversion (POD) registered through the State Water Resources Control Board through a Right to Divert and Use Water (Registration #H503567) which allows for 0.70 acre-feet or 228,096 gallons of water appropriation. The site contains forty (40) 5,000-gallon hard sided water storage tanks providing a total of 200,000-gallons of storage. Conditions of approval require that no more than three gallons per minute (3 gpm) may be diverted at any time, the permittee is required to pass 80% of the flow at all times to keep aquatic species including fish and other aquatic life in good condition below the point of diversion, and water may not be diverted outside of December 1 through March 31. Conditions of approval require the installation of additional water storage to meet annual water demand. No more than the 16,130 square feet of cultivation occurring on the property is allowed to be cultivated until water storage of 228,096 gallons is developed and filled on the property.
- f) A Special Permit is required for the continued use and maintenance of the point of diversion associated with this proposed project as a source of irrigation for back up use in years of low rain fall. This is an existing point of diversion that is authorized by both the SWRCB and CDFW. Adherence to requirements for both agencies, including use of appropriately-size equipment, diversion of water during rainy season and under certain stream flow requirements will ensure impacts to the SMA are minimized. Therefore, Planning staff supports continued use of the point of diversion that would be authorized by a Special Permit.
- g) Access to the site is via a private access road 0.17 miles in length via Alderpoint Road a county-maintained category 4 or equivalent road. The application submitted a Road Evaluation

Report form with a Route map and photos, dated August 2018 prepared by NorthPoint Consulting Group for the private drive not maintained by the County (Attachment 3). The Road Evaluation Report describes the private access road as meeting a Category 4 road equivalent standard and is adequate for the proposed use. Per comments received from the Department of Public Works, Land Use Divisions, dated May 2019, any existing or proposed non-county maintained access roads that will serve as access for the proposed project that connect to a County-maintained road shall be improved to current standards for a commercial driveway and that private road intersections onto the County road shall be maintained in accordance with County Code section 341-1 (Sight Visibility Ordinance), including the relocation of gates or fences out of the County right of way, which have been included as conditions of approval.

- h) The project parcel is mapped in the County GIS as high instability. The location of existing cultivation is 30% slope or less according to the Site Management Plan prepared by Northpoint Consulting. Conditions of approval require all structures associated with cannabis operations be permitted through the Building Inspection Division according to the California Building Code to ensure structures are constructed in a safe manner.
- i) A review of aerial (Satellite) imagery from 2014 through 2021 through the Humboldt County Web GIS portal which provides a series of National Agriculture Imagery Program (NAIP) does not provide any discernible evidence that timber conversion has occurred onsite for cannabis cultivation activities. No timber conversion activities are planned or proposed as a part of this project. No loss of timber is expected through the proposed and continued use of this project as designed.
- j) 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 19,500 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 implement the recommendations received from the Department of Public Works, Land Use Divisions, dated May 2019, which will require any existing or proposed non-county maintained access roads that will serve as access for the proposed project that connect to a County-maintained road shall be improved to current standards for a commercial driveway and that private road intersections onto the County road shall be maintained in accordance with County Code section 341-1 (Sight Visibility Ordinance), including the relocation of gates or fences out of the County right of way, which have been included as conditions of approval.
 - 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) Water for irrigation is provided by an onsite point of diversion (POD) registered through the State Water Resources Control Board through a Right to Divert and Use Water (Registration #H503567) which allows for 0.70 acre-feet or 228,096 gallons of water appropriation. The site contains forty (40) 5,000-gallon hard sided water storage tanks providing a total of 200,000-gallons of storage. Conditions of approval require that no more than three gallons per minute (3 gpm) may be diverted at any time, the permittee is required to pass 80% of the flow at all times to keep aquatic species including fish and other aquatic life in good condition below the point of diversion, and water may not be diverted outside of December 1 through March 31. Conditions of approval require the installation of additional

water storage to meet annual water demand. Specifically, 22,096 additional gallons of water storage shall be added prior to the expanding beyond the existing 16,130 square footage on the property, which can be supported by the existing water right and on-site storage until the 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: 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. The approval of cannabis cultivation on this parcel will not conflict with the ability for the residences 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 Middle Main Eel Planning Watershed, which under Resolution 18-43 is limited to 360 permits and 125 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 106 permits and the total approved acres would be approximately 45 acres of cultivation.

9. FINDING: The use of the diversion for cannabis irrigation will not have an adverse impact on public trust resources.

EVIDENCE: a) All water for irrigation comes from a diversion to the unnamed stream that is tributary to the North Dobbyn Creek thence Dobbyn Creek. There are no known uses of these watercourses for water-borne commerce or recreational paddling or swimming activities, however these waterways do contain important fishery resources. Dobbyn Creek and North Dobbyn Creek

provide important habitat for winter run steelhead trout. The diversion of 228, 096 gallons per year will occur during the winter months, however the terms of the SAA require additional restrictions on the use of this diversion in order to specifically protect aquatic species such as the winter-run steelhead. Per the conditions of the SAA, no more than three gallons per minute (3 gpm) may be diverted at any time, the permittee is required to pass 80% of the flow at all times to keep aquatic species including fish and other aquatic life in good condition below the point of diversion, and water may not be diverted outside of December 1 through March 31. With these restrictions in place, the use of the stream diversion for cannabis should have no discernable adverse effect on public trust resources.

FINDINGS FOR APPROVAL OF LOT LINE ADJUSTMENT

10. FINDING: The proposed Lot Line Adjustment is consistent with the approval criteria in Section 325-5-6 of the Humboldt County Code.

- EVIDENCE:**
- a) The application was found to be complete.
 - b) The parcels to be adjusted were found to be in conformance with the Subdivision Map Act and local subdivision regulations, as one parcel was created by an approved Parcel Map Subdivision and one parcel was created through a government patent as modified through merger by operation of law pursuant to land under a Williamson Act Contract.
 - c) The proposal will neither cause non-conformance nor increase the severity of any existing nonconformities with zoning and building ordinances. The Lot Line Adjustment will correct a property encroachment.

11. FINDING: The Lot Line Adjustment and Contract Amendment is consistent with Section 51257 of the California Government Code (Williamson Act).

- EVIDENCE:**
- a) If approved, in order to complete the Lot Line Adjustment a new land conservation contract will need to be recorded concurrently with the Lot Line Adjustment, that will restrict the revised contracted lands for a period of not less than ten years.
 - b) As proposed, an equal exchange of 2.40 acres would occur, thereby ensuring that there is not net decrease in restricted acreage.
 - c) The existing contract covers approximately 4470 acres and the land in question is 2.4 acres, which is significantly less than 1% of the land under the former contract. Therefore, over 90% of the land under the contract will remain under contract.
 - d) The land subject to the contract will remain at approximately 4,470 acres and will therefore be large enough to sustain their agricultural use. Figure 1 below shows the entirety of the existing land under contract and the Punta Cana property (in red). The equal exchange of 2.4 acres will not reduce the size of the property under contract.
 - e) The adjustment will not compromise the long-term agricultural productivity. While some accessible grazing land may be lost, this area is already occupied by non-grazing land use activities and the adjustment will provide an additional point of access to water for the grazing activities, thereby helping to support the grazing use. Figure 2 below shows the proposed lot configuration and figure 3 below provides a satellite image of the properties (property lines on the satellite image are not entirely accurate).
 - f) The adjacent land use is agricultural and this lot line adjustment will help to enable the adjacent property to obtain a permit to continue to commercial cultivate cannabis, which is an agricultural product.

FINDINGS FOR ZONE RECLASSIFICATION

- 12. FINDING:** The Zoning Amendment is in the public interest.

EVIDENCE: a) The reclassification of 2.4 acres of property zoned Unclassified to Agriculture Exclusive with a B5(160) combining Zone and of 2.4 acres from Agriculture Exclusive with a B5(160) combining zone will align the zone boundary between the two zones to be concurrent with the new adjusted property line. This will ensure that there are no zoning inconsistencies on the properties and will ensure that the larger Prior land ownership can remain in the Williamson Act Program, which is in the public interest.

13. FINDING: The amendment is consistent with the County General Plan.

EVIDENCE: a) Both properties are planned Agriculture Grazing under the County General Plan. AE zoning is consistent with this plan designation. While the Unclassified zone is a legacy zone that is no longer compatible with the current general plan designations, the adjustment will ensure alignment between the proposed property boundaries while not increasing the nonconformity with the plan and will not preclude the adoption of the General Plan implementing zoning ordinance.

14. FINDING: The zoning amendment will not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development for determining compliance with Housing Element law.

EVIDENCE: a) Neither parcel has been utilized for compliance with Housing Element law and the adjustment will not alter the density of either 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, Special Permit and Lot Line Adjustment for Punta Canna, LLC, based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference; and
- Recommend the Board of Supervisors approve the Zone Reclassification and enter into an amended Land Conservation Contract with the landowners of the Prior Agricultural Preserve.

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 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.

John H. Ford, Director
 Planning and Building Department