

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

**Resolution Number: 23-**

**Record Number: PLN-11850-CUP**

**Assessor's Parcel Number: 217-032-013**

**Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Earthgreen Cali Farms Conditional Use Permit request.**

**WHEREAS**, Earthgreen Cali Farms, submitted an application and evidence in support of approving a Conditional Use Permit for continued cultivation of 38,800 square feet (SF) of outdoor cannabis and 3,880 SF of ancillary propagation. Water for irrigation is sourced from a permitted groundwater well. Existing available water storage is 38,400 gallons in a series of hard sided tanks, with an additional 40,000 gallons proposed, for a total of 78,400 gallons of onsite water storage for cannabis irrigation. Estimated annual water usage is 540,000 gallons. Drying, curing, and bucking activities occur onsite, with all other processing occurring offsite at a licensed processing or manufacturing facility. A maximum of seven (7) employees may be utilized during peak operations. Power is provided by solar power and two (2) back-up generators; 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 (CMLLUO) adopted by the Humboldt County Board of Supervisors on January 26, 2016. The proposed project does not present substantial changes that would require major revisions to the previous Mitigated Negative Declaration. No new information of substantial importance that was not known and could not be known at the time was presented as described by §15162(c) of CEQA Guidelines; and

**WHEREAS**, the Humboldt County Planning Commission held a duly-noticed public hearing on January 5, 2023, and reviewed, considered, and discussed the application for a 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:** The application is a Conditional Use Permit for continued cultivation of 38,800 square feet (SF) of outdoor cannabis and 3,880 SF of ancillary propagation. Water for irrigation is sourced from a permitted groundwater well. Existing available water storage is 38,400 gallons in a series of hard sided tanks, with an additional 40,000 gallons proposed, for a total of 78,400 gallons of onsite water storage for cannabis irrigation. Estimated annual water usage is 540,000 gallons. Drying, curing, and bucking activities occur onsite, with all other processing occurring offsite at a licensed processing or manufacturing facility. A maximum of seven (7) employees may be utilized during peak operations. Power is provided by solar power and two (2) back-up generators.

**EVIDENCE:** a) Project File: PLN-11850-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 CEQA Guidelines.
  - c) A Site Management Plan (SMP; WDID 1B16190CHUM), prepared by Natural Resources Management Corporation in April 2021, and a Notice of Applicability (NOA) were 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 implementation of the SMP and NOA, and maintaining enrollment in the State Cannabis Cultivation Policy for the life of the project.
  - d) Per review of CDFW's California Natural Diversity Database (CNDDB) in November 2022, there are no mapped sensitive species onsite and the nearest NSO positive sighting and activity center are located approximately 0.30 and 0.48 miles from the site, respectively. Conditions of approval will require light and noise attenuation, including adherence to Dark Sky Standards for greenhouse lighting and security lighting and noise produced by commercial activities to be at or below 50 decibels at 100 feet. In addition, power is provided by solar, with two (2) generators utilized for back-up. 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. 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) The cultivation of cannabis will not result in the net conversion of timberland. Review of National Agriculture Imagery Program (NAIP) imagery dating back to 2004 through Humboldt County WebGIS indicates the subject property included a large open area within the eastern portion of the property dating back to at least this date, and there is no apparent evidence of timber conversion occurring onsite. No timber conversion is proposed or authorized by this permit.

- f) A Cultural Resources Investigation Report was prepared by Archaeological Research and Supply Company in March 2020, in which no historic or prehistoric era resources were located during the survey and recommended Inadvertent Discoveries Protocol, as there is always the possibility of the inadvertent discovery of buried archaeological resources during ground disturbing activities with project implementation. The Bear River Band of the Rohnerville Rancheria provided concurrence with the recommendations of the study in September 2021.
- g) A Road Evaluation Report for an approximately 11-mile segment of Alderpoint Road from State Highway 36 to the access driveway was prepared by a representative of the applicant in April 2020, which indicates that the roadway is developed to the equivalent of a road Category 4 standard or better and is suitable for safe access to and from the project site. The use of Alderpoint Road for commercial cannabis operations is approved by the Department of Public Works. The project is conditioned to maintain all driveways and private road intersections onto the County road in accordance with the County's Sight Visibility Ordinance (County Code §341-1) and improve the access driveway that serves the project to current commercial driveway standard.

## **FINDINGS FOR CONDITIONAL USE PERMIT**

### **3. FINDING**

The proposed development is in conformance with the County General Plan, Open Space Plan, and the Open Space Action Program.

#### **EVIDENCE**

- a) General agriculture is a use type permitted in the Timberland (T) land use designation. The proposed cannabis cultivation, an agricultural product, is within land planned and zoned primarily for timberland, but where agricultural uses are principally permitted. The use of natural open spaces on the parcel for cannabis cultivation 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) All of the unincorporated areas of the County not otherwise zoned is designated as the Unclassified or U zone. This area has not been sufficiently studied to justify precise zoning classifications; however, general agricultural uses within the U zone are principally permitted.
- b) General agricultural uses and ancillary structures are principally permitted in the Unclassified (U) 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 38,800 square feet (SF) of outdoor cannabis cultivation with 3,880 SF of ancillary propagation on a 186.5-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 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 in its current configuration by an approved lot line adjustment (Notice of Lot Line Adjustment and Certificate of Subdivision Compliance 2004-17434), memorialized in Record of Survey 69RS56.
- c) Water for irrigation is provided by a permitted groundwater well (15/16-0596), which is also registered with the California Department of Water Resources (WCR2017-001935). The well is located in the northeastern portion of the parcel, north of the existing cultivation. According to the Well Completion Report, the completed well is 140 feet deep and drilled through top soil, sandstone, and shale. A blank is installed for the first 40 feet, with additional screening for the remaining depth of the well.

A *Hydrological Isolation of Existing Well from Surface Waters* (Hydrological Evaluation) was prepared by Lindberg Geologic Consulting in October 2022 to assess the existing well's potential for hydrological connectivity with any adjacent wetlands and surface waters, and if pumping the well could affect surface waters in nearby watercourses. As noted in the Hydrological Evaluation, the subject well is located more than 1,000 feet south of the nearest watercourse (Martin Creek) and more than 2,200 feet northeast of Larabee Creek. Additionally, the well is noted to be 140 feet deep with the wellhead at an elevation of 1,760 feet. The elevation of Martin Creek to the north is approximately 1,520 feet and the elevation of the unnamed perennial watercourse to the southwest is approximately 1,560 feet, and the total depth elevation is 1,620 feet, making the nearest watercourses 100 feet and 60 feet lower than the bottom of the subject well, respectively. When considered with the stratigraphy, and the underlying geologic structure, plus the distances (horizontal and vertically) from the nearest surface waters, and the depth of the producing zone of this well (approximately 21 to 140 feet), as well as the position of the well relative to the nearest surface waters in the vicinity, it is concluded in the Hydrological Evaluation that the well is likely to be hydraulically isolated from nearby wells, surface waters, springs, or wetlands, and would not have a negative impact or effect on proximal wetlands, wells, or surface waters in the vicinity.

- d) A Road Evaluation Report for an approximately 11-mile segment of Alderpoint Road, from State Highway 36 to the access driveway, was prepared by a representative of the applicant in April 2020 (Attachment 4D), which indicates the roadway meets a Category 4 road equivalent standard and is suitable for safe access to and from the subject site. The use of Alderpoint Road for commercial cannabis operations is approved by the Department of Public Works. The project is conditioned to maintain all

driveways and private road intersections onto the County road in accordance with the County's Sight Visibility Ordinance (County Code §341-1) and improve the access driveway that serves the project to current commercial driveway standard.

- e) The slope of the land where cannabis will be cultivated is less than 8%, as per the Site Management Plan (SMP; WDID 1B1716190CHUM) prepared by Natural Resources Management Corporation in April 2021.
- f) The cultivation of cannabis will not result in the net conversion of timberland. Review of National Agriculture Imagery Program (NAIP) through Humboldt County WebGIS dating back to 2014 provided no apparent evidence of timber conversion occurring onsite. No timber removal is proposed or authorized under this permit.
- 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 38,800 square feet 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.
- b) The site is in a rural part of the County where the typical parcel size is over 30 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) 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 a permitted groundwater well (15/16-0596), which is also registered with the California Department of Water Resources (WCR2017-001935). The well is located in the northeastern portion of the parcel, north of the existing cultivation. According to the Well Completion Report, the completed well is 140 feet deep and drilled through top soil, sandstone, and shale. A blank is installed for the first 40 feet, with additional screening for the remaining depth of the well.

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Hydrological Evaluation, the subject well is located more than 1,000 feet south of the nearest watercourse (Martin Creek) and more than 2,200 feet northeast of Larabee Creek. Additionally, the well is noted to be 140 feet deep with the wellhead at an elevation of 1,760 feet. The elevation of Martin Creek to the north is approximately 1,520 feet and the elevation of the unnamed perennial watercourse to the southwest is approximately 1,560 feet, and the total depth elevation is 1,620 feet, making the nearest watercourses 100 feet and 60 feet lower than the bottom of the subject well, respectively. When considered with the stratigraphy, and the underlying geologic structure, plus the distances (horizontal and vertically) from the nearest surface waters, and the depth of the producing zone of this well (approximately 21 to 140 feet), as well as the position of the well relative to the nearest surface waters in the vicinity, it is concluded in the Hydrological Evaluation that the well is likely to be hydraulically isolated from nearby wells, surface waters, springs, or wetlands, and would not have a negative impact or effect on proximal wetlands, wells, or surface waters in the vicinity.

- 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. A Site Management Plan (SMP; WDID 1B16190CHUM) was prepared by Natural Resources Management Corporation in April 2021. The project is required to implement and adhere to and make the required remediation corrections pursuant to the recommendations included within the SMP. Furthermore, the applicant is required to maintain enrollment in the State Cannabis Cultivation Policy for the life of the project.

## 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 residence 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 Lower Eel Planning Watershed, which under Resolution 18-43 is limited to 336 permits and 116 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 77 permits and the total approved acres would be 35.46 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 for Earthgreen Cali Farms, based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1A and incorporated herein by reference; and

Adopted after review and consideration of all the evidence on January 5, 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.

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John Ford, Director  
Planning and Building Department