

**RESOLUTION OF THE ZONING ADMINISTRATOR
OF THE COUNTY OF HUMBOLDT**

Resolution Number 23-

Record Number PLN-12313-SP

Assessor's Parcel Number: 221-061-034

Resolution by the Zoning Administrator of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Magick Mountain Organics Salmon Creek, LLC Special Permits.

WHEREAS, Magick Mountain Organics Salmon Creek, LLC submitted an application and evidence in support of approving a Special Permit for 8,102 square feet of existing outdoor light-deprivation cannabis cultivation and a Special Permit for development in the Streamside Management Area to remediate or decommission encroachments on Class II and III streams; 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 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 Zoning Administrator held a duly-noticed public hearing on September 7, 2023, and reviewed, considered, and discussed the application for the Special Permits and reviewed and considered all evidence and testimony presented at the hearing.

Now, THEREFORE BE IT RESOLVED, that the Zoning Administrator makes all the following findings:

FINDING:

Project Description: A Special Permit for 8,102 square feet of existing outdoor light-deprivation cannabis cultivation occurring in three greenhouses. There will be up to two flowering cycles per year. Water for irrigation is sourced from a 500,000-gallon rain catchment pond and a 25,000-gallon rain catchment tank. There is an additional 15,800 gallons of hard storage that is filled from the pond and catchment tank during the winter months. Annual water use for irrigation is 92,000 gallons. Clone stock will be purchased from a licensed nursery. There will be one full time seasonal employee on site during cultivation cycles in addition to the applicant. Processing currently occurs on-site by

the applicant utilizing a trim machine in an 8'x20' conex container. The applicant is proposing to move processing off site to a licensed processing facility. Cannabis is dried and stored in an 8'x20' conex container. Power is provided by a 45kW Whisper Watt generator and two solar panels, which provide 30-kW of power. The applicant proposes to install additional solar panels with the use of a backup generator in emergency situations. The application also includes a Special Permit as is required for development in the Streamside Management Area (SMA) to remediate or decommission encroachments on Class II and III streams.

EVIDENCE: Project File: PLN-12313-SP

- 1. FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Zoning Administrator has considered 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, and the addendum to the MND prepared for the project.

- 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) The applicant will source water from rain catchment.
 - d) The applicant has submitted a copy of a Lake or Streambed Alteration Agreement (LSAA) (No. 1600-2017-0704-R1) (Attachment 4B) that describes four encroachments. The four proposed encroachment are to remediate or decommission encroachments on Class II and III streams. Work for these encroachments will include excavation, removal of the failing culverts, shaping of the impacted channels, and rock armoring as necessary to minimize erosion. The project was referred to CDFW on May 18, 2022, and CDFW recommended conditional approval. These conditions are included in Attachment 1A and can be referenced in Attachment 5.
 - e) A Site Management Plan (SMP) was prepared for the site by Elevated Solutions, LLC (WDID 1_12CC411865) in April of

2022 (Attachment 4A), which details existing site conditions and remediation efforts needed to comply with the best practical treatment or control (BPTC) measures listed in Attachment A of the Cannabis General Order. According to the SMP there are no cannabis facilities within any Streamside Management Areas (SMAs). The project is conditioned to implement all remaining corrective actions detailed in the SMP to minimize any potential impacts associated with the project and minimize runoff into SMAs.

- f) According to the California Natural Diversity Database (CNDDDB), there is no mapped potential habitat for any special status species nearby or on the parcel. The project is located approximately 1.17 miles to the nearest Northern Spotted Owl (NSO) activity center. The project is for existing outdoor light-deprivation cannabis cultivation without the use of grow lights, water will be sourced by rain catchment, and a generator would only be used for emergency purposes as the applicant installs additional solar panels. The project is conditioned that the combination of background, generator and greenhouse fan or other operational equipment created noise does not exceed 50 decibels at 100 feet from the generator or at the nearest tree line, whichever is closer. The project was referred to CDFW on May 18, 2022, and CDFW had no comments on the project.
- g) The project is located within the Bear River Band of the Rohnerville Rancheria and the Sinkyone aboriginal ancestral territories. The project was referred to the Northwest Information Center (NWIC), the Bear River Band, and the Intertribal Sinkyone Wilderness Council. NWIC replied recommending that the local Native American tribes be contacted regarding traditional, cultural, and religious heritage values. The Bear River Band THPO replied on February 3, 2023, stating that they recommend inadvertent archaeological discovery protocols for the project. This has been added as a condition of approval.
- h) Access to the site is via Salmon Creek Road which is a county-maintained road (Segment 1), Thomas Road which is also a county-maintained road (Segment 2), Thomas Road privately maintained road (Segment 3), and Upper Samuels Ranch Loop Road privately maintained road (Segment 4). The applicant has submitted a Road Evaluation Report for the four road segments prepared by Omsberg & Preston May 26, 2023 (Attachment 4C). The report found that road segments 1 & 2 were to have been improved to Road Category 4 standards. These County-maintained roads have been the subject of numerous road

evaluations under other permit applications, and the called-for improvements have been completed, or are in progress of being completed. The report did however include recommendations for improvements in order to maintain those portions of the roadway that currently meet Humboldt County Road Category 4 standards, and to bring those segments with deficiencies up to said Category 4 standards or “equivalent”. In addition, turnouts along the entire length shall be maintained for safety, visibility requirements and emergency access. These recommendations are included as ongoing conditions of project approval. As the project will be run solely by the applicant and an employee, it is determined that the project would not result in a significant increase in traffic, and it has been determined that the access road (with the implementation of the recommended improvements and maintenance) meets the functional capacity for the project’s needs.

FINDINGS FOR SPECIAL PERMITS

2. FINDING

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

- EVIDENCE**
- a) General and intensive agriculture are allowed uses in lands designated Residential Agriculture (RA).
 - b) The proposed project is located within an Open Space Action Program because the project site is within an area of high instability (see hazards discussion below). General agriculture is a use type principally permitted in the Unclassified (U) zoning district. General agriculture is also a permitted use in the RA 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. Therefore, the project is consistent with and complimentary to the Open Space Plan and its Open Space Action Program.
 - c) The subject parcel is located in an area of high geologic instability, but it is not located within an Alquist-Priolo Fault Hazard Zone. The subject parcel is not located within in any flood zone or is susceptible to dam failure inundation. The subject parcel is located within a very high fire hazard severity zone within the State Responsibility Area for fire protection. The parcel is also within the Salmon Creek Volunteer Fire Company (SCVFC) response area. The SCVFC responds to structural fires

and medical emergencies. There is a 50,000-gallon fire suppression pond and associated SRA turnaround on the parcel. No new structures are proposed. No increased threats to hazards are anticipated as a result of the project.

3. FINDING

The proposed development is consistent with the purposes of the existing U zone in which the site is located.

- EVIDENCE**
- a) The Unclassified or U Zone is intended to be applied to areas of the County in which general agriculture uses is a desirable use.
 - b) All general agricultural uses are principally permitted in the U zone.
 - c) The project meets the minimum yard setbacks, minimum distances between major buildings, and maximum ground coverage requirements of the zone.
 - d) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 10,000 square feet of existing outdoor cannabis cultivation on a parcel zoned U over 1 acre subject to approval of a Special Permit. The application is for 8,102 square feet of pre-existing outdoor cultivation on a 46.9-acre parcel.
 - e) Four encroachments are to be remediated or decommissioned on Class II and III streams. Work for these encroachments will include excavation, removal of the failing culverts, shaping of the impacted channels, and rock armoring as necessary to minimize erosion. The work within the SMAs may be conducted in accordance with the LSAA and pursuant to Section 314-61.1.7.6.3 H.C.C. with the Special Permit that is being requested.

4. FINDING

The proposed development is consistent with the requirements of the CMMLUO Provisions of the Zoning Ordinance.

- EVIDENCE**
- a) The CMMLUO allows existing outdoor cannabis cultivation to be permitted in areas zoned U (HCC 314-55.4.8.2.2).
 - b) The subject parcel has been determined to be one legal parcel (Lot 1) as shown on Parcel Map recorded in Book 15 of Parcel Maps page 26.
 - c) The applicant will source water from rain catchment.

- d) Access to the site is via Salmon Creek Road which is a county-maintained road (Segment 1), Thomas Road which is also a county-maintained road (Segment 2), Thomas Road privately maintained road (Segment 3), and Upper Samuels Ranch Loop Road privately maintained road (Segment 4). The applicant has submitted a Road Evaluation Report for the four road segments prepared by Omsberg & Preston May 26, 2023 (Attachment 4C). The report found that road segments 1 & 2 were to have been improved to Road Category 4 standards. These County-maintained roads have been the subject of numerous road evaluations under other permit applications, and the called-for improvements have been completed, or are in progress of being completed. The report did however include recommendations for improvements in order to maintain those portions of the roadway that currently meet Humboldt County Road Category 4 standards, and to bring those segments with deficiencies up to said Category 4 standards or “equivalent”. In addition, turnouts along the entire length shall be maintained for safety, visibility requirements and emergency access. These recommendations are included as ongoing conditions of project approval. As the project will be run solely by the applicant and an employee, it is determined that the project would not result in a significant increase in traffic, and it has been determined that the access road (with the implementation of the recommended improvements and maintenance) meets the functional capacity for the project’s needs.
- e) 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, and more than 600 feet from any school, school bus stop, church or other place of religious worship, or Tribal Cultural Resource.
- f) Electricity is sourced from solar with an emergency generator. The project is conditioned that noise from the generator does not exceed 50 decibels at 100 feet from the generator or at the nearest tree line, whichever is closer.

5. FINDING

The cultivation of 8,102 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 not 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 will not change the existing character of the area due to the numerous other permitted cultivation operations nearby.

- b) The applicant will source water from rain catchment.
- c) The project is in an area designated to have High Fire Hazard Severity. The project is located within the State Responsibility Area for fire protection and the Salmon Creek Volunteer Fire Company (SCVFC) response area. The SCVFC responds to structural fires and medical emergencies. There is a 50,000-gallon fire suppression pond and associated SRA turnaround on the parcel. No increased threats to fire hazards are anticipated as a result of the project.
- d) Access to the site is via Salmon Creek Road which is a county-maintained road (Segment 1), Thomas Road which is also a county-maintained road (Segment 2), Thomas Road privately maintained road (Segment 3), and Upper Samuels Ranch Loop Road privately maintained road (Segment 4). The applicant has submitted a Road Evaluation Report for the four road segments prepared by Omsberg & Preston May 26, 2023 (Attachment 4C). The report found that road segments 1 & 2 were to have been improved to Road Category 4 standards. These County-maintained roads have been the subject of numerous road evaluations under other permit applications, and the called-for improvements have been completed, or are in progress of being completed. The report did however include recommendations for improvements in order to maintain those portions of the roadway that currently meet Humboldt County Road Category 4 standards, and to bring those segments with deficiencies up to said Category 4 standards or “equivalent”. In addition, turnouts along the entire length shall be maintained for safety, visibility requirements and emergency access. These recommendations are included as ongoing conditions of project approval. As the project will be run solely by the applicant and an employee, it is determined that the project would not result in a significant increase in traffic, and it has been determined that the access road (with the implementation of the recommended improvements and maintenance) meets the functional capacity for the project’s needs.

6. 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.

7. 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 South Fork Eel Planning Watershed, which under Resolution 18-43 is limited to 730 cultivation permits and 251 acres of cultivation. With the approval of this project the total approved cultivation permits in this Planning Watershed would be 216 permits and the total approved acres would be 83.77 acres of cultivation.

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 Permits for Magick Mountain Organics Salmon Creek, LLC subject to the conditions of approval attached hereto as Attachment 1A.

Adopted after review and consideration of all the evidence on September 7, 2023.

I, John Ford, Zoning Administrator 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 Zoning Administrator at a meeting held on the date noted above.

John H. Ford, Zoning Administrator,
Planning and Building Department