

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

Resolution Number: 22-

Record Number: PLN-10946-SP

Assessor's Parcel Number: 314-203-008

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Allison Shore Special Permits request.

WHEREAS, Allison Shore submitted an application and evidence in support of approving a Special Permit for 10,000 square feet (SF) of existing outdoor cannabis cultivation utilizing light deprivation techniques and 1,000 SF of ancillary propagation. Irrigation water is sourced from a spring diversion, with plans to add rainwater catchment and install a groundwater well. Existing available water storage is 36,500 gallons in six (6) HDPE water storage tanks and a 10,000-gallon bladder. Estimated annual water usage is 107,600 gallons. Processing, including drying, trimming, and packaging, occurs onsite. A maximum of two (2) people will be on-site during peak operations. Power is provided by two (2) Honda generators, with long-term plans to convert to solar. 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, the County Planning Division, the lead agency, prepared an Addendum to the Final 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 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 December 15, 2022, 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:** The application is a Special Permit for an existing 10,000 square foot (SF) outdoor cannabis cultivation utilizing light deprivation techniques and 1,000 SF of ancillary propagation. Irrigation water is sourced from a spring diversion, with plans to add rainwater catchment and install a groundwater well. Existing available water storage is 36,500 gallons in six (6) HDPE water storage tanks and a 10,000-gallon bladder. Estimated annual water usage is 107,600 gallons. Processing, including drying, trimming, and packaging, occurs onsite. A maximum of two (2) people will be on-site during peak

operations. Power is provided by two (2) Honda generators, with long-term plans to convert to solar. 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.

EVIDENCE: a) Project File: PLN-10946-SP

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 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 1_12CC418188), prepared by Timberland Resource Consultants in May 2021, and a Notice of Applicability 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 adhere to and implement the recommendations of the SMP and NOA, and maintain enrollment in the SWRCB Cannabis Cultivation Program for the life of the project.

d) Per review of CDFW's California Natural Diversity Database (CNDDDB) in October 2022, there are no mapped sensitive species onsite. California Department of Fish and Wildlife Resource Maps indicate there are no mapped special status species onsite. A review of the CNDDDB Spotted Owl Observation Database showed that Northern Spotted Owl (NSO) habitat exists in the vicinity, and the nearest NSO positive sighting and activity center are located approximately 0.26 and 0.33 miles from the nearest cultivation area, respectively. Use of artificial lighting will only occur within the ancillary propagation area (1,000 SF). Power is currently provided by two (2) Honda generators; however, the applicant has long-term plans to convert to solar. 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. The plan shall also describe how the operation will transition to use of 80% renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026

Additionally, the project is conditioned such that combined noise generated from generators shall not exceed 50 decibels (dB) at 100 feet from the generator or at the edge of the nearest forest habitat, whichever is closer, as required by Section 314-55.4.11(o) Humboldt County Code. Furthermore, the project is conditioned to adhere to International Dark Sky Standards for any supplemental lighting used for security or within the nursery area, 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 and will not negatively impact NSO or other sensitive species.

- e) The cultivation of cannabis will not result in the net conversion of timberland. A Timber Conversion Evaluation was prepared by Timberland Resource Consultants in November 2020 to assess the amount of timberland conversion on the subject site. Per the Report, historic logging has occurred on the subject site, and both cultivation sites occupy old log landings constructed between 1988 and 1993. Cultivation Site 1 was noted to have been expanded to its present size and configuration between May 2016 and June 2016, and Cultivation Site 2 was expanded between October 2015 and May 2016. However, per the Report, it is noted the expansions appear to have simply consisted of the removal of brush and trees from the footprint of the previously graded landings. The Report notes a total of 0.81 acres of timber conversion has occurred onsite for the two cultivation sites, which does not exceed the three-acre conversion exemption maximum. Additionally, it is concluded the conversion activities conducted on the property are in compliance with the California Forest Practice Act and the California Forest Practice Rules, and no recommendations are provided in the Report. No additional timber conversion is requested or authorized under this permit.
- f) The Cultural Resources referral process carried out by staff concluded that the proposed project will not result in any adverse changes to historical or archaeological resources and recommended Inadvertent Discovery Protocol, which was also recommended by the Bear River Band of the Rohnerville Rancheria in August 2017.
- g) Road Evaluation Reports for a 1.8-mile segment of an unnamed private road from Mountain View Road to the private onsite driveway, and a 0.2-mile segment of the private driveway from the unnamed private road to the cannabis farm were prepared by the applicant in January 2021, which indicate that the roadways meet a Category 4 road equivalent standard and are suitable for safe access to and from the

project site. Conditions of approval require the applicant to obtain an encroachment permit from the Department of Public Works and improve the driveway that serves the project to current commercial driveway standards. In addition, all fences and gates shall be relocated out of the County right of way and all driveways and private road intersections onto the County road shall be maintained in accordance with County Code Section 41-1 (Sight Visibility Ordinance).

FINDINGS FOR SPECIAL PERMITS

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 for timberland (T) uses. The use of old logging decks for cannabis cultivation is 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.

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

EVIDENCE a) The Timberland Production Zone or TPZ Zone is intended to be applied to areas of the County in which primary uses include the growing and harvesting of timber and timber production facilities, including portable processing equipment. Compatible uses other than the direct growing, harvesting, and portable processing of timber include grazing and other agricultural uses.

b) All general agricultural uses are principally permitted in the TPZ zone.

c) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 10,000 square feet of existing outdoor 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 10,000 square feet of outdoor cultivation on a 214-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 TPZ (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 by an approved and recorded

Parcel Map Subdivision (Lot 4 of Parcel Map 2502 of Parcel Map Book 22 Page 77).

- c) Water for irrigation is currently provided by a point of diversion from an unnamed spring located to the north of the subject property on APN: 314-201-008, for which a *Right to Divert and Use Water* was issued by the SWRCB in September 2019 (Registration H507752, Certificate H100586). The applicant has an easement for use and maintenance of the point of diversion infrastructure. The appropriative water right allows for 0.46 acre-feet (149,891 gallons) per year to be collected between November 1 and May 31 and limits total storage capacity to 0.48 acre-feet (or 156,409 gallons). The total estimated annual water usage associated with the project (107,600 gallons) equates to approximately 71.8% of the water appropriated.

Under the project, the applicant proposes to add rainwater catchment and install a groundwater well to help meet the annual water demand of the project. An assessment of the rainwater catchment potential of the proposed rainwater catchment system was completed to determine if adequate water supply would be available to serve the project. Based on information provided by the applicant in October 2022, the applicant plans to collect rainwater from the roofs of the two (2) existing cabins onsite (each approximately 10'x12', or 120 SF, per the Site Plan, for a total of 240 SF) into 2,500-gallon tanks (although the total number of tanks was not specified). Based on the impermeable rainwater catchment area of 240 SF, and an average rainfall amount of 56.97 inches, the site's potential capture amount totals 8,477 gallons per year, on average. The proposed rainwater catchment system alone would not provide enough water to meet the needs of the project; however, use of the spring diversion will also continue under the project, and the added rainwater catchment would reduce the amount of water required from the spring diversion. As such, when compared to the estimated annual water usage amount (107,600 gallons), Planning staff believes there will be sufficient water available from the point of diversion and rainwater catchment system, once installed, to serve the project.

A groundwater well is also proposed on the subject site. However, use of the well for irrigation of cannabis is not authorized under this permit. Should use of the well for cannabis irrigation be requested in the future, a modification to this permit will be required and the well will need to be assessed by a qualified professional and determined to not be hydrologically connected to surface waters.

Conditions of approval require the applicant to monitor water use from the point of diversion, rainwater catchment system (once installed), and storage tanks annually to demonstrate there is sufficient water available to meet operational needs. In addition, conditions of approval require a

minimum of 67,700 gallons of additional water storage (but not to exceed 119,909 gallons, consistent with the storage limits specified in the Right to Divert), including a minimum of 8,477 gallons to be specifically dedicated to the rainwater catchment system, to be added to the subject site to meet the project's water demand during the forbearance period, which shall be installed in a previously disturbed area and without the use of heavy machinery prior to the 2023 cultivation season. Additionally, the applicant is required to submit revised and/or addenda to the Right to Divert and Final SAA to clarify the point of diversion is located on the adjacent property (APN: 314-201-008).

- d) Road Evaluation Reports for a 1.8-mile segment of an unnamed private road from Mountain View Road to the private onsite driveway, and a 0.2-mile segment of the private driveway from the unnamed private road to the cannabis farm were prepared by the applicant in January 2021, which indicate that the roadways meet a Category 4 road equivalent standard and are functionally appropriate for the expected traffic. Conditions of approval require the applicant to obtain an encroachment permit from the Department of Public Works and improve the driveway that serves the project to current commercial driveway standards. In addition, all fences and gates shall be relocated out of the County right of way and all driveways and private road intersections onto the County road shall be maintained in accordance with County Code Section 41-1 (Sight Visibility Ordinance).
- e) The cultivation of cannabis occurs on historic log landings, with adjoining hillslopes of 10-15% grade, as described by the Timber Conversion Evaluation and Site Management Plan.
- f) The cultivation of cannabis will not result in the net conversion of timberland. A Timber Conversion Evaluation was prepared by Timberland Resource Consultants in November 2020 to assess the amount of timberland conversion on the subject site. Per the Report, historic logging has occurred on the subject site, and both cultivation sites occupy old log landings constructed between 1988 and 1993. Cultivation Site 1 was noted to have been expanded to its present size and configuration between May 2016 and June 2016, and Cultivation Site 2 was expanded between October 2015 and May 2016. However, per the Report, it is noted the expansions appear to have simply consisted of the removal of brush and trees from the footprint of the previously graded landings. The Report notes a total of 0.81 acres of timber conversion has occurred onsite for the two cultivation sites, which does not exceed the three-acre conversion exemption maximum. Additionally, it is concluded the conversion activities conducted on the property are in compliance with the California Forest Practice Act and the California Forest Practice Rules, and no recommendations are

provided in the Report. No additional timber conversion is requested 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 and more than 600 feet from any school, church, public park or Tribal Cultural Resource.

6. FINDING

The cultivation of 10,000 square feet of cannabis cultivation with ancillary propagation and processing activities 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 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 sized in the area.
- c) Irrigation water will come from a point of diversion located on APN 314-201-008 that is registered with the State Water Resources Control Board (Registration H507752, Certificate H100586) and rainwater catchment, to be collected from the roofs of two (2) existing onsite cabins. Conditions of approval require the applicant to submit revised and/or addenda to the Right to Divert and Final SAA to clarify the point of diversion is located on the adjacent property (APN: 314-201-008).
- 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.

7. FINDING

To provide minimum standards pertaining to the use and development of land located within Streamside Management Areas (SMAs) and other wet areas (OWA) to implement the County's Open Space Element of the General Plan.

EVIDENCE

- a) Conditions of approval require the applicant to adhere to and implement the projects and recommendations contained in the Final SAA and provide evidence to the Planning Department that the projects included in the Final SAA are completed to the satisfaction of CDFW. Conditions of approval also require the applicant to adhere to the terms and conditions of the Right to Use and Divert Water issued by the State

Water Resources Control Board (SWRCB). By implementing permit conditions from the SWRCB and CDFW, impacts to the SMA are minimized.

8. 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 site was not included in the housing inventory of Humboldt County's 2019 Housing Element but contains an existing residential dwelling on the subject property. The approval of cannabis cultivation on this site will not conflict with the ability for the residence to continue to be utilized on this parcel.

9. 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 Mad River Planning Watershed, which under Resolution 18-43 is limited to 334 permits and 115 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 120 permits and the total approved acres would be 5309 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 Special Permits for Allison Shore, based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference; and

Adopted after review and consideration of all the evidence on **December 15, 2022**.

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.

John Ford, Director
Planning and Building Department