

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

Resolution Number: 23-

Record Number: PLN-11980-SP

Assessor's Parcel Number: 522-025-003 and 522-024-005 (one separate legal parcel)

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Evergreen Family Farm, LLC, Special Permits.

WHEREAS, Evergreen Family Farm, LLC, submitted an application and evidence in support of approving a Special Permit for the continued operation of an existing 10,000 SF of outdoor cannabis cultivation operation with appurtenant propagation, drying, and processing activities and a Special Permit for restoration work within a Streamside Management Area (SMA) associated with the removal of a water tank from the SMA.; 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 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 October 19, 2023, and reviewed, considered, and discussed the application for the Special 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:** A Special Permit for 10,000 square feet (SF) of existing outdoor full-sun cannabis cultivation. Plant stock will be sourced from a 1,000 SF nursery on the adjacent parcel (APN 522-024-002), which is also host to an existing cannabis operation that is pursuing a permit concurrent with the subject project. Irrigation water is sourced from a permitted groundwater well on the adjacent parcel that serves the subject parcel and the adjacent parcel. Total water storage for both parcels is 49,500 gallons and consists of 3 2,500-gallon tanks for fire suppression, 4 5,000-gallon tanks for irrigation, 6 2,500-gallon tanks for irrigation, 3 1,500-gallon tanks for irrigation, and 1 2,500-gallon tank for domestic use. An additional 150,000 gallons of tank storage is proposed to support irrigation needs. Total annual water use for both parcels is 312,000-gallons. Product will be dried on the

adjacent parcel in an existing shed and further processing will occur offsite at a licensed processing facility until Cabin #3 on the adjacent parcel is upgraded to commercial/Americans with Disabilities Act (ADA) standards. Power is not required for the 10,000 SF outdoor full-sun cultivation on the subject parcel. The operation is staffed by up to 3 full-time employees and 4 part-time seasonal employees shared between APNs 522-024-002 and APN 522-025-003/522-024-005. A Special Permit is also requested for work within the Streamside Management Area (SMA) associated with the removal of a tank from the SMA, and to allow for associated remediation activities within the SMA.

EVIDENCE: a) Project File: PLN-11980-SP

- 2. FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The 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 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 Water Resource Protection Plan (WRPP) prepared by Pacific Watershed Associates Inc. in May 2017 evaluated if the site met the standard conditions of compliance. As a condition of approval, the applicant shall implement the corrective or remedial actions listed in the WRPP. On September 7, 2023, CDFW staff observed activities that were in violation of Fish and Game Code (FGC) section 1602. Notably, CDFW observed substantial sediment discharge to Waters of the State through erosion of hydrologically connected roads. CDFW requests, as a condition of project approval, that the applicant implement a stormwater plan (Site Management Plan) to direct surface flow away from streams to mitigate the existing threats of sediment delivery. In addition, those recommendations developed under any future Site Management Plan to be developed for the parcels, pursuant to Tier 2 enrollment under the State Water Resources Control Board (SWRCB) General Order shall also be followed.
- d) A Lake and Stream Bed Alteration Agreement (LSAA) notification was submitted to the California Department of Fish and Wildlife (CDFW) on November 30, 2020. CDFW issued Notification No. EPIMS-HUM-

13648-R1C in on July 13, 2021, for the replacement of 2 culverts on the subject parcel. On September 7, 2023, CDFW observed violations of Fish and Game Code (FGC) 1602 that were not in compliance with the LSAA. Notably, CDFW observed unauthorized surface water diversion for irrigation of cannabis cultivation from a tributary to Supply Creek during the forbearance period. Additionally, no water metering was occurring as required, and no monitoring reports have been submitted to CDFW as required, resulting in the applicant being out of compliance with the LSAA. CDFW requests, as a condition of project approval, that all Fish and Game Code violations are cured, and that the applicant becomes in compliance with the LSAA

- e) No Biological Assessment Report was prepared for the project. There is a water tank within the SMA of the Class II Stream. The WRPP is requiring that this tank be removed, and that the area be restored to its natural state. This activity is allowed with the additional Special Permit that is being requested. The nearest spotted owl activity center is approximately 1.1 miles east of the project site and additional owl activity centers are further from the project site in all directions. The project is conditioned to adhere to Dark Sky Association standards for security lighting, 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 affect northern spotted owl or other sensitive species.
- f) A Cultural Resources Inventory Report (CRIR) was prepared by Dimitra Zalarvis-Chase M.A., R.P.A. in August of 2022. Two cultural resources were observed and recorded as a result of survey efforts. Both resources were recorded on Department of Parks and Recreation (DPR) 523 forms. As a result, conditions were recommended for the project. It was concluded that there will be No Effect to historical, archaeological, or Tribal Cultural Resources, as defined by CEQA with adherence to the recommended conditions. It was also recommended that the inadvertent discovery protocol be followed.
- g) A Road Evaluation Report was prepared for 3 Creeks Road from Highway 299 to the private drive on APN 522-025-003. The report identified 3 Creeks Road as developed to the functional equivalent of a road category 4 standard and adequate for the proposed use without further review. 3 Creeks Road is partially county maintained.

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 Timber Production Zone (TPZ) 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 TPZ zone in which the site is located.
- EVIDENCE:** a) The TPZ zone is applied to areas of the County in which timber production and recreation is the desirable predominant uses and general agriculture is the secondary 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 SF of existing cannabis cultivation on a parcel between 5 acres and 10 acres 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 SF of existing outdoor cultivation on a parcel 80-acres in size.
- d) There is a water tank within the SMA of the Class II Stream. The WRPP requires that this tank be removed in accordance with the Streamside Management Areas and Wetlands Ordinance, and that the area be restored to its natural state. This activity is allowed with the additional Special Permit that is being requested.
- 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 (Section 314-55.4.8.2.2).
- b) The parcel has been determined to be a legal parcel per Notice of Lot Line Adjustment and Certificate of Subdivision Compliance, Instrument No.1992-2207-3, Recorded January 27, 1992.
- c) The project will obtain water from a permitted groundwater well (16/17-1318).
- d) A Road Evaluation Report was prepared for 3 Creeks Road from Highway 299 to the private drive on APN 522-025-003. The report

identified 3 Creeks Road as developed to the functional equivalent of a road category 4 standard and adequate for the proposed use without further review. 3 Creeks Road is partially county maintained.

- e) The slope of the land where cannabis will be cultivated is less than 15%.
- f) 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, church, public park, or Tribal Cultural Resource.

6. FINDING: The cultivation of 10,000 SF of 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 Old 3 Creeks Road, a partially county-maintained road and the Road Evaluation Report concluded that the entire road segment is developed to the equivalent of a road category 4 standard.
 - b) The site is in a rural part of the county where the typical parcel size is over 25–40 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 will come from a groundwater well that has been permitted by the Division of Environmental Health.
 - 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: 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 Trinity Planning Watershed, which under Resolution 18-43 is limited to 169 permits and 58 acres of cultivation. With the approval of the project the total approved permits in this Planning Watershed would be 62 permits and the total approved acres would be approximately 26.9 acres of cultivation. If all of the Supply Creek projects on the October 19, 2023 Planning Commission agenda are approved there would be a total of 73 permits and 34 acres approved within the Lower Trinity Planning Watershed.

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 parcel was not included in the housing inventory of Humboldt County's 2019 Housing Element but does have the potential to support one housing unit. The approval of cannabis cultivation on this parcel will not conflict with the ability for a residence to be constructed on this 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 Special Permits for Evergreen Family Farm, LLC subject to the conditions of approval attached hereto as Attachment 2A.

Adopted after review and consideration of all the evidence on October 19, 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.

John Ford, Director
Planning and Building Department