

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

**Resolution Number 24-\_\_**

**Record Number PLN-11543-CUP**

**Assessor's Parcel Number: 221-021-026**

**Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the MIB, LLC Conditional Use Permit.**

**WHEREAS, MIB, LLC** applied for a Conditional Use Permit and a Special Permit (PLN-11543-CUP) for a maximum of 29,938 square feet of existing outdoor cannabis cultivation and 2,400 square feet of existing mixed light cannabis cultivation for a total of 32,838 square feet; and

**WHEREAS,** the County prepared an Addendum to the Final Mitigated Negative Declaration (MND) 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 **September 19, 2024**, and reviewed, considered, and discussed the application for the requested 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:** A Conditional Use Permit for 29,938 square feet of existing outdoor commercial cannabis cultivation and 2,400 square feet of existing mixed light commercial cannabis cultivation totaling 32,838 square feet. The project includes 3,160 square feet of ancillary nursery and onsite relocation and restoration of cultivation areas. Estimated annual water use is 220,000 gallons and sourced from rainwater catchment. Water storage is provided by nine 2,500-gallon poly water and a 250,000-gallon pond for a total of 272,500 gallons of storage. Processing, including trimming, will occur on site. Electricity is provided by a solar array with a generator for emergency backup only. A Special Permit is included because the project is within 600 feet of public lands managed for open space.

**EVIDENCE:**            a) Project File: PLN-11543-CUP

**2. FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been met. 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 to the MND prepared for the proposed project in compliance with CEQA (Attachment 2).
  - 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 list of potential special status species was generated in November 2021 using the following information systems: California Natural Diversity Database (CDFW 2021), Biogeographic Information and Observation System (BIOS), Northern Spotted Owl Viewer (CDFW 2021), and US Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC). At least one known NSO Activity Center occurs within 0.9 miles of the cultivation sites and within 500 ft of Designated Northern Spotted Owl Final Critical Habitat (CDFW 2024). The applicant shall implement the mitigation measures identified in the CMMLUO Mitigated Negative Declaration (MND) adopted on January 26, 2016 and adhere to the recommendations prepared by CDFW regarding minimizing disturbance to the NSO.
    - The combined decibel level for all noise sources shall be no more than 50 decibels at the edge of adjacent forest habitat or 100 feet away from the source, whatever is closer, and no more than 60 decibels at the property line, whichever is closer (Condition C2).
    - Prior to the use of any operation-related fans, generators, or water pumps, noise containment/dampening infrastructure shall be constructed to meet the 50 decibel sound limit as necessary. (Condition A10).
  - d) A Site Management Plan (SMP) was prepared in fulfillment of State Water Resources Control Board (SWRCB) General Order WQ 2019-0001-DWQ. The document was prepared to meet the North Coast Regional Water Quality Control Board (NCRWQCB) requirements for Tier 1 discharges of waste resulting from cannabis cultivation (WDID No. 1B16910CHUM). The SMP analyzed the driveway, permanent access road, seasonal access road and three stream crossings on the project site. The permanent road segment was determined to be well rocked

with appropriate and adequately spaced drainage structures. The seasonal road was well drained; however, maintenance needs to be conducted and rolling dips and pushouts are not functioning adequately. The SMP includes a summary of corrective actions/recommendations including a requirement for three unmet standards to be resolved. Recommendations for the site include maintaining existing and new road surface drainage structures, avoiding use of un-surfaced roads, regular inspection of culverts during winter months to ensure flow, installing water meters to track monthly use and support annual reporting (**Condition A24**).

- e) A cultural resources investigation (“report”) was prepared by William Rich, M.A. of William Rich and Associates (December 2018). No artifacts, features, deposits, or any other historic cultural resources, including tribal cultural resources, were found during the field survey conducted for the report. No further archaeological studies are recommended for permit approval. Consultation letters were sent to Native American groups associated with the project area. The Native American Heritage Commission (NAHC) provided a suggested list of Native American representatives to contact. The Bear River Band of the Rohnerville Rancheria requested to see a copy of the finalized report and recommended the inadvertent discovery protocol be applied to the project. Representatives from the Intertribal Sinkiyone Wilderness Council did not respond to requests for comments. The report recommended establishing protocols to protect cultural resources and/or human remains which may be discovered inadvertently during project work. The standard Inadvertent Discovery Protocol will be used to protect artifacts or remains that may be discovered during project work (**Informational Note 3**).

### **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 is a use type permitted in the Residential Agriculture (RA) land use designation. The proposed cannabis cultivation, an agricultural product, is consistent with the use of Open Space land for managed production of resources. The use of an RA designated parcel for commercial agriculture is consistent with the Open Space Plan and Open Space Action Program. Therefore, the project is consistent with and complementary to the Open Space Plan and its Open Space Action Program.

- b) The proposed project is not located within any riparian setbacks or streamside management areas.

**4. FINDING:** The proposed development is consistent with the purposes of the existing Unclassified (U) zoning designations in which the site is located.

- EVIDENCE:**
- a) General agriculture is a use type permitted in the Unclassified (U) zoning designation. The proposed cannabis cultivation, an agricultural product, is consistent with the definition of the General Agriculture Use Type contained in HCC §314-170.1 and is therefore permitted in the (U) zone.
  - b) CMMLUO section 314-55.4.8.2.2 allows cultivation of up to 43,560 SF of existing outdoor cannabis on Unclassified parcels with an area five acres and greater, subject to the approval of a Conditional Use Permit and a determination that the cultivation was in existence prior to January 1, 2016. Application PLN-11543-CUP is for a maximum of 29,938 square feet (SF) of existing outdoor cannabis cultivation and 2,400 sf of existing mixed light cannabis cultivation with a propagation nursery of 3,160 SF or 10 percent of the total cultivation area. Cultivation occurs on a 46-acre parcel and includes a Cultivation Area Verification prepared by the County and is therefore consistent with the Humboldt County Code.

**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 Unclassified (U), (HCC 314-55.4.8.2.2).
  - b) The parcel was created in compliance with all applicable state and local subdivision regulations. The grant deed for the parcel was recorded as document number 2015-006247-3.
  - c) Water storage for irrigation use is stored in nine 2,500-gallon poly water tanks filled by one 250,000-gallon rain catchment pond. Water storage total is 272,500 gallons. Estimated annual water use is 220,000 gallons (5.11 gal/SF). The water is sourced on site from a rain catchment system and a well which shall be permitted prior to use for irrigation activities (Condition A19) and shall comply with the recommendations prepared by CDFW in regard to the pond.
  - d) The slope of the land where cannabis will be cultivated is greater than 15%. Because this is an existing cultivation site, the CMMLUO does not restrict cultivation on slopes greater than 15%.
  - e) Timberland was converted to support the cultivation of cannabis. Approximately 2.47 acres of timberland was converted to cultivation

area prior to 2016 and an additional .24 acres were converted between 2020 and 2022. A Timberland Conversion Evaluation Report (TCER) and a supplementary report were prepared by Timberland Resource Consultants to address unpermitted conversion (Attachments 3).

The supplementary report addressed the timber removal and conversion which occurred between 2020 and 2022. TRC's RPF identified three areas which had been harvested since the original TCER, and found a total of 1.11 acres of timber removed, with .24 acres converted from timberland.

Pursuant to section 314-55.4.10(j) of the CMMLUO, for existing operations (defined as cultivation activities operating prior to January 1, 2026) occupying sites created through prior unauthorized conversion of timberland, the applicant shall secure the services of a registered professional forester to evaluate the conditions and conversion history for the property and provide a written report to the Planning Division containing the RPF's recommendations as to remedial actions necessary to bring the conversion area into compliance with provisions of the Forest Practice Act. If CALFire takes no action within ten days of being informed of the RPF report, the report's recommendations become final. As such, the applicant is conditioned to follow the RPF's recommendations made in both reports.

The first report recommends treatment of debris at converted sites, removal of fill materials placed in watercourses, establishment of proper drainage of the graded flat near cultivation site 2, removal and treatment of woody material placed in the watercourse near cultivation site 2, and removal of fill materials from the watercourse near cultivation site 3 (**Condition A12**).

The second report recommends the landowner replant Cultivation Site 3 (0.3 acres) to mitigate the minor loss of timber at Greenhouse #7 and Greenhouse #8 and that the applicant remove any man made/artificial material except solar panels from the Tree Removal Area and avoid use and/or development of the area and allow it to naturally regenerate without further disturbance (Condition 12).

The applicant shall adhere and implement all recommended actions and reforest the project site as described in the Timber Restocking Plan (**Attachment 4E**).

- 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, more than 300 feet from any offsite residence, and more than 600 feet from any school, church, or Tribal Cultural Resource, but is less than 600 feet from public lands managed for open space. This reduced setback

will be permitted with a Special Permit. The Bureau of Land Management, the agency who manages the concerned public lands, were contacted for comment but no comment was received. CDFW addressed the setback and said the proposed project may have significant adverse effect on biological resources managed on that land. They recommended a series of ongoing requirements (**Ongoing Requirements x-x**) to reduce the disturbance to wildlife.

- g) The primary source of electrical power is a 3.8kW solar array for both domestic and agricultural uses. For emergency and backup purposes, a 25k MQ Power Whisper generator is also on site to use when needed. Usage is on average 128 kWh per day from March to November, depending on the need for and duration of ventilation, and use of farming equipment. The generator shall be housed in a generator shed for noise attenuation when in use.
- h) The noise produced by the generator shall not be audible by humans from neighboring residences. The combined decibel level for all noise sources, including generators, shall not harass Marbled Murrelet and shall be no more than 60 decibels at the property line (Ongoing Requirement 1).

**6. FINDING:**

The cultivation of 32,838 square feet (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 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 size in the area.
- b) The location of the proposed cannabis cultivation is more than 300 feet from the nearest off-site residence. The project's proximity to Public Lands managed for open space could cause a disturbance to the public, but with the limitations on noise created by the project, that disturbance is mitigated. The managing agency, the Bureau of Land Management, was contacted for comment on the project but they did not respond.
- c) A Site Management Plan was provided in accordance with the State Water Resources Control Board General Order WQ 2019-0001-DWQ and the applicant submitted a Notice of Applicability. The applicant has

been conditioned to implement all recommendations in the Site Management Plan (**Condition 21A**).

- d) A Lake and Streambed Alteration Agreement (LSAA) has been filed with the California Department of Fish and Wildlife (CDFW) to address all work to be done within the waterways (Notification No. 1600-2018-0753-R1). The LSAA addresses seven project encroachments, including one point of diversion, one pond spillway, decommissioning/remediation of a graded flat, three stream crossings, and a note stating the groundwater well' is not subject to measures of this agreement. The stream crossing encroachments involve decommissioning of the dirt ford crossings. The point of diversion shall be used for domestic use, and the pond spillway would replace the existing spillway and install a culvert and use rock armoring to avoid and minimize erosion. The applicant has been conditioned to implement all recommendations from the LSAA and adhere to prescribed reporting measures to the satisfaction of CDFW (Condition A20).

The applicant has a spring Point of Diversion (POD) that is no longer in use, does not have a water meter, and is out of compliance with measures in the LSAA. CDFW requested, as a condition of approval, that the permittee/applicant either install a water meter and submit annual water monitoring reports as required in the LSAA or remove all infrastructure associated with the POD and restore the spring its natural condition to the extent feasible (Condition A23).

- e) **Hazardous Materials:** Hazardous materials on site include one 25kw generator, 7kw generator, five 5-gallon gas cans located in shed, one 1,000 gallon diesel tank with secondary containment, 1 gallon beach, 2 gallons rubbing alcohol. These items are stored in a variety of storage areas within the curtilage of the cultivation site. The 1,000-gallon diesel tank is stored within the curtilage of the cultivation site.
- f) The applicant shall take measures to ensure that little to no light escapes from the mixed light cultivation activities. Light shall not escape at a level that is visible from neighboring properties between sunset and sunrise (Ongoing Requirement 3). Additionally, security lighting be motion activated and comply with the International Dark-Sky Association standards and Fixture Seal of Approval Program. Standards include but are not limited to the following, 1) light shall be shielded and downward facing, 2) shall consist of Low-Pressure Sodium (LPS) light or low spectrum Light Emitting Diodes (LED) with a color temperature of 3000 kelvins or less and 3) only placed where needed. A light attenuation monitoring and management plan for this activity is required to be submitted within thirty days following effective date of the Conditional

Use Permit (Condition A11).

- 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 contains one existing residential unit. The approval of cannabis cultivation on this parcel will not conflict with the operation or use of the existing residential units onsite.
- 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 parcel is located in the South Fork Eel Planning Watershed. The permit cap in that watershed is 730 permits, and the acre cap is 251 acres. According to the County's most recent records, there are 306 permits approved, making up a total cultivated area of 84.39 acres. The approval of this permit would cause there to be 307 permits approved and 84.93 acres cultivated.



## 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 approve the Conditional Use Permit (PLN-11543-CUP) for MIB, 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
- Adopted after review and consideration of all the evidence on **September 19, 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.

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John H. Ford, Director  
Planning and Building Department