

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; Meeting on October 26, 2021

Resolution No. ___ - ___ Resolution of the Board of Supervisors of the County of Humboldt DETERMINING THE PROJECT IS STATUTORILY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, ADOPTING FINDINGS OF FACT, DENYING THE CONDITIONAL USE PERMIT MODIFICATION RECORD NO. PLN-17430-CUP, REVOKING CONDITIONAL USE PERMIT PLN-12176-CUP, AND ALLOWS REMOVAL OF THE ASSOCIATED COVENANT.

WHEREAS, Rocci Costa applied for a Zoning Clearance Certificate for 10,000 square feet of new commercial cannabis cultivation under the County's Commercial Medical Marijuana Land Use (CMMLUO) Ordinance on December 21, 2016; and

WHEREAS, Section 314-55.4.6.7 of the County's Commercial Cannabis Land Use Ordinance (CCLUO) adopted on May 8, 2018 retroactively requires all Zoning Clearance Certificate applications submitted prior to January 1, 2017 in specified Community Planning Areas comply with specific provisions intended to ensure compatibility with surrounding uses and control of potential nuisance; and

WHEREAS, to comply with Section 314-55.4.6.7 of the CCLUO, Rocci Costa applied for a Conditional Use Permit to allow for open-air cultivation within 600 feet of a residence on a separately owned parcel; and

WHEREAS, on March 5, 2020 the Planning Commission denied the requested Conditional Use Permit; and

WHEREAS, an appeal of the Planning Commission denial was timely filed by Rocci Costa, and

WHEREAS, on March 16, 2021 the Board of Supervisors held a duly-noticed public hearing, *de-novo*, and reviewed, considered, and discussed the application and appeal for the Conditional Use Permit; and reviewed and considered all public testimony and evidence presented at the hearing.; and

WHEREAS, on March 16, 2021 the Board of Supervisors:

1. Found that the application was revised to seek only an entitlement to Retire, Remediate and Relocate (RRR); and
2. Approved the Appeal submitted by Rocci Costa identified as Record Number PLN-16376; and,
3. Approved the requested Conditional Use Permit Application No. PLN-12176 for Retirement, Remediation and Relocation (RRR) purposes only; and

WHEREAS, on August 31, 2021, Rocci Costa filed an application to modify the previously approved Conditional Use Permit, identified as record number PLN-2021-17430; and

WHEREAS, on October 26, 2021, the Board of Supervisors held a duly-noticed public hearing and reviewed, considered, and discussed the application for a modification to the Conditional Use Permit to allow for the RRR to be rescinded and cultivation approved on the original site; and reviewed and considered all public testimony and evidence presented at the hearing.

Now, THEREFORE BE IT RESOLVED, that the Board of Supervisors makes all the following findings and adopts all of the following evidence:

- 1. FINDING:** **CEQA.** The Conditional Use Permit is a discretionary project and therefore potentially subject to the California Environmental Quality Act (“CEQA”) but it has been determined that the project is statutorily exempt from environmental review pursuant to Section 15270 of the CEQA Guidelines (projects which are disapproved).

EVIDENCE: a) CEQA Guidelines Section 15270 states that CEQA does not apply to projects which a public agency rejects or disapproves.

- 2. FINDING** The proposed cannabis cultivation site would obtain access from Warren Creek Road which is a narrow residential road not suitable to providing access to a 10,000 square foot cannabis cultivation site and as a result the proposed development and conditions under which it would be operated and maintained will be detrimental to the public health, safety, or welfare and materially injurious to properties and improvements in the vicinity.

EVIDENCE a) Warren Creek Road does not meet a Category 4 road standard and thus required preparation of a Road Evaluation report to determine the suitability of the Road to support the cannabis cultivation activity. A road report was prepared by Robin Collins of Green Road Consulting on January 10, 2020.

b) The road evaluation identified a portion of the road as a very low volume road as narrow as 12 feet wide with fences on both sides of the road. The road report also identified that even in areas where the road was wider there were pinch points.

c) The road evaluation recommended many improvements being necessary for approval of the proposed project. The improvements include installation of turnouts, removal of vegetation for sight distance, and installation of gravel for turnouts and widening. In

addition, the recommend installation of signage to advise that the road narrows, one lane road ahead, and of an upcoming blind corner. Installation of one or more of the recommended turnouts would result in the need to relocate existing fencing.

- d) The proposed cannabis site is at the very end of Warren Creek Road.

3. FINDING

The proposed cannabis cultivation site is in the Blue Lake Community Plan area and is not compatible with the community and would create a nuisance to the community.

EVIDENCE

- a) Potential cannabis odor from the unenclosed cannabis cultivation would impact adjacent residences.
- b) Warren Creek Road is a low volume narrow road serving a predominantly residential area. Putting commercial cannabis cultivation related traffic on this road in the form of employees, delivery and transportation of product on this road will change the character of the residential area.
- c) The County has found that outdoor cannabis cultivation can be inconsistent with predominantly residential areas and regulates outdoor cultivation more strictly. In this case the applicant has not been able to address the concerns of the community, or adequately convince the Board of Supervisors that this can be operated in a manner compatible with the community.

NOW, THEREFORE, be it resolved that the Board of Supervisors hereby:

- 1 Finds the project exempt from environmental review pursuant to Section 15270 of the CEQA Guidelines; and
- 2 Denies the requested Conditional Use Permit Modification for Record Number PLN-2021-17430, revokes Conditional Use Permit PLN-12176-CUP, and allows removal of the covenant from the property.

The foregoing Resolution is hereby passed and adopted by the Board of Supervisors on October 26, 2021, by the following vote:

Adopted on motion by Supervisor _____, seconded by Supervisor _____ and the following vote:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

Chair

Humboldt County Board of Supervisors

STATE OF CALIFORNIA)) SS. County of Humboldt

I, Kathy Hayes, Clerk of the Board of Supervisors of the County of Humboldt, State of California do hereby certify the foregoing to be a full, true, and correct copy of the original made in the above-titled matter by said Board of Supervisors at a meeting held in Eureka, California as the same now appears of record in my office.

In Witness Whereof, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.

KATHY HAYES Clerk of the Board of Supervisors of the County of Humboldt, State of California

By: KATHY HAYES

Date: _____, 2021

By _____ Deputy