

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

**Resolution Number: 23-**

**Record Number: PLN-11460-CUP**

**Assessor's Parcel Number: 221-111-027**

**Resolution by the Zoning Administrator of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Humboldt Natural Collective Special Permits request.**

**WHEREAS, Humboldt Natural Collective,** submitted an application and evidence in support of approving a Special Permit for an existing 9,850 square foot (SF) outdoor cannabis cultivation utilizing light deprivation techniques within three (3) greenhouses, including 985 SF of ancillary propagation. Irrigation water is sourced from two (2) points of diversion from a spring and spring-fed pond. Existing available water storage is 83,000 gallons in a 60,000-gallon pond and a series of hard-sided tanks. Estimated annual water usage is 53,000 gallons. Processing occurs onsite within two (2) separate areas. A maximum of eight (8) people will be onsite during peak operations. Power is provided by two (2) generators and solar, with long-term plans to add additional solar onsite. Special Permits are also requested for development in the Streamside Management Area (SMA) related to continued use and maintenance of the points of diversion, and for a setback reduction to reduce the 600-foot setback requirement from public lands; 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 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 Zoning Administrator held a duly-noticed public hearing on March 2, 2023, 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 Zoning Administrator makes all the following findings:

- 1. FINDING:**                    **Project Description:** The application is a Special Permit for an existing 9,850 square foot (SF) outdoor cannabis cultivation utilizing light deprivation techniques within three (3) greenhouses, including 985 SF of ancillary propagation. Irrigation water is sourced from two (2) points of diversion. Existing available water storage is 83,000 gallons in a 60,000-gallon pond and a series of hard-sided tanks. Estimated annual water usage is 53,000 gallons. Processing occurs onsite within two (2) separate areas. A maximum of eight (8) people will be onsite during peak operations. Power is provided by two (2) generators and solar, with long-term plans to add additional solar onsite. Special Permits are also requested for development in the Streamside Management Area (SMA) related to continued use and

maintenance of the points of diversion, and for a setback reduction to reduce the 600-foot setback requirement from public lands.

**EVIDENCE:** a) Project File: PLN-11460-SP

- 2. 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 prepared for this 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) A Site Management Plan (WDID 1B16125CHUM) was prepared by Green Road Consulting in May 2019 and a Notice of Application has been provided 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 in the Site Management Plan and maintain enrollment in the State Cannabis Cultivation Policy for the life of the project.
  - d) California Department of Fish and Wildlife Resource Maps indicate there are no mapped sensitive species onsite. There nearest Northern Spotted Owl (NSO) positive sighting and activity center are located approximately 0.56 and 0.88 miles from the nearest cultivation area, respectively. Power to the site is provided by two (2) generators and solar. Per information provided by the applicant's agent in December 2021, the generators are utilized for approximately five (5) hours per day in the summer and seven (7) hours per day during the winter to supplement the solar power. The applicant has long-term plans to add additional solar in the future when financially prudent. Conditions of approval will require noise to be at below 50 decibels at 100 feet which is below the guidance established by the California Department of Fish and Wildlife for protection of the species.
  - e) Based on review of historic aerial imagery dating back to 2004, the subject property was observed to contain an open area within the western and central portions of the site, and no expansion was observed to have occurred on the subject property in order to accommodate the proposed project. Based on review of the aerial imagery, the greenhouses and associated infrastructure appear to be located within the existing open area.

A letter was prepared by Blair Forestry Consulting in August 2019, in which it was noted that historic imagery dating back to 1963 was reviewed, which indicated the "site is situated in a historic meadow on a ridgeline and that the timberline footprint has not changed in relation to cannabis cultivation." It is further noted that it is the opinion of the Registered Professional

Forester (RPF) that no timberland conversion has occurred on the parcel. As a result, no further evaluation or restocking is required.

- f) A Cultural Resources Investigation was prepared by Archaeological Research and Supply Company in August 2019 (on file and confidential), which did not encounter any resources onsite. Although no resources were encountered, there is always the possibility of inadvertent discovery of buried archaeological resources during ground disturbing activities associated with project implementation. Inadvertent Discoveries Protocol is recommended in the Report, as well as by the Bear River Band of the Rohnerville Rancheria in November 2021, which is included as an ongoing condition of approval.
- g) A Road Evaluation Report for a 4.6-mile segment of Dutyville Road from Ettersburg-Honeydew Road to the subject property was prepared by the applicant in September 2019, which indicates that the roadway meets a Category 4 road equivalent standard and is adequate for safe access to and from the site. Conditions of approval require the applicant to obtain an encroachment permit from the Department of Public Works and improve the intersection of Dutyville Road and Ettersburg-Honeydew Road to commercial driveway standards, as well as maintain all driveways and private road intersections onto the County road in accordance with County Code Section 341-1 (Sight Visibility Ordinance). Additionally, to ensure access to the site is adequately maintained, as a condition of approval, the applicant shall join and maintain enrollment in the “Dutyville Friends of the Road” Road Maintenance Association, provide evidence of enrollment, and pay fair share costs associated with maintaining Dutyville Road.

### **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 uses, although agricultural uses are permissible, consistent with the use of Open Space land for managed production of resources. The use of the 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 Timberland Production Zone (TPZ) 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 general agriculture residential uses are the desirable predominant 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 and up to 10,000 square feet of existing mixed-light 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 9,850 square feet of outdoor cultivation with ancillary propagation on a 84.3-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 (Parcel 3 of Parcel Map 2399, Parcel Map Book 021, Page 065).
- c) Estimated annual water usage for the project is 53,000 gallons. Water for irrigation is provided by two (2) points of diversion (a spring and spring-fed pond) on the subject property. A *Right to Divert and Use Water*, issued by the State Water Resources Control Board (SWRCB) in July 2018 (Registration No. H500860, Certificate No. H100115), includes the spring diversion. Per the water right, the water appropriated shall not exceed 0.58 acre-feet (188,993.5 gallons) per year and the total storage capacity shall not exceed 0.46 acre-feet (149,891.4 gallons). The total estimated annual water usage (53,000 gallons) is approximately 28.04% of the appropriated amount allowed under the water right. Currently, there is 83,000 gallons of onsite water storage in a 60,000-gallon pond and twelve (12) HDPE tanks ranging in size between 500 and 5,000 gallons (totaling 23,000 gallons). Total water storage (including the pond) is under the maximum allowed under the water right. Conditions of approval require the applicant to continue to comply with the requirements of the Right to Divert and Use Water.

In addition, a Final Streambed Alteration Agreement (Final SAA) was issued by the California Department of Fish and Wildlife (CDFW) in August 2019 (Notification No. 1600-2017-0420-R1; Attachment 3), which includes four (4) encroachments – water diversions from a spring and spring-fed pond for domestic use and irrigation, including replacement of pond outlet culvert; and replacement of two (2) stream crossing culverts with a minimum 24-inch diameter culvert. Per the Final SAA, the amount of water diverted from the spring is required to be reduced to a maximum of 200 gallons per day between May 15 to November 15 each year. Regarding the pond, seasonal diversion minimization is required in order to minimize potential adverse impacts to native pond breed amphibians. Between November 1 and March 31, water shall be diverted at a rate no greater than the rate of water flowing into the pond (i.e., water diversion shall not decrease the pond depth), and, from April 1 through September 1, when native larval amphibians are present, the Permittee is required to cease diverting water once the pond volume is one-third of the maximum pond volume. The Final SAA requires that a fixed visual marker(s) (e.g., stage

plate) in the pond as a reference for water level thresholds. Conditions of approval require the applicant to comply with the requirements established under the Final SAA and to monitor water use from the two (2) points of diversion and storage tanks annually to demonstrate there is sufficient water available to meet operational needs.

- d) Road Evaluation Report for a 4.6-mile segment of Dutyville Road from Ettersburg-Honeydew Road to the subject property was prepared by the applicant in September 2019, which indicates that the roadway meets a Category 4 road equivalent standard and is 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 intersection of Dutyville Road and Ettersburg-Honeydew Road to commercial driveway standards, as well as maintain all driveways and private road intersections onto the County road in accordance with County Code Section 341-1 (Sight Visibility Ordinance). Additionally, to ensure access to the site is adequately maintained, as a condition of approval, the applicant shall join and maintain enrollment in the “Dutyville Friends of the Road” Road Maintenance Association, provide evidence of enrollment, and pay fair share costs associated with maintaining Dutyville Road.
- e) The slope of the land where cannabis will be cultivated is approximately 2% as described by the Site Management Plan prepared by Green Road Consulting dated May 24, 2019.
- f) Based on review of historic aerial imagery dating back to 2004, the subject property was observed to contain an open area within the western and central portions of the site, and no expansion was observed to have occurred on the subject property in order to accommodate the proposed project. Based on review of the aerial imagery, the greenhouses and associated infrastructure appear to be located within the existing open area.

A letter was prepared by Blair Forestry Consulting in August 2019, in which it was noted that historic imagery dating back to 1963 was reviewed, which indicated the “site is situated in a historic meadow on a ridgeline and that the timberline footprint has not changed in relation to cannabis cultivation.” It is further noted that it is the opinion of the Registered Professional Forester (RPF) that no timberland conversion has occurred on the parcel. As a result, no further evaluation or restocking is required.

- g) The location of the cultivation complies with most 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 off-site residence, and more than 600 feet from any school, church, or Tribal Cultural Resource. However, based on review of aerial imagery, the subject site is located directly adjacent to public lands, including property under State Lands Commission ownership immediately north of the site (APN 221-111-003, with an additional parcel further to the west-APN 221-111-007). Additionally, there is property under Bureau of Land Management (BLM) ownership located directly west of the site (APN 221-111-017), as well as further to the west and north of the site. The cultivation is located more than 600 feet (approximately 1,160 feet at the

nearest point) from State Lands Commission lands; however, the onsite cultivation is located approximately 585 feet northeast from the adjacent public lands under BLM ownership at the nearest point, as measured on Humboldt County WebGIS. No developed or designated recreational facilities are within 600 feet of the cultivation and propagation areas.

The project was referred to BLM in February 2022, and follow-up was conducted on October 28, 2022, to provide a summary of the project and inquire if the agency has any comments or concerns regarding the project. Comments were received from the BLM Arcata Field Office, dated November 3, 2022 (Attachment 4), in which concerns were expressed regarding the potential for the project to deliver nutrients and other pollutants to adjacent watercourses, including the Mattole River and its tributaries. Additionally, it is noted the contiguous BLM is designated as Critical Habitat for the Northern Spotted Owl (NSO) by the U.S. Fish and Wildlife Service (USFWS). BLM expressed concerns regarding the proximity of the operation to NSO critical habitat and a historic NSO activity center, as well as the potential for light, generator use, runoff, and rodenticide use associated with the operation to impact BLM land and sensitive wildlife species, including NSO.

The project is conditioned to require the applicant implement noise and light attenuation measures, refrain from using synthetic netting, ensure refuse is contained in wildlife proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife. Additionally, 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. With implementation of the required conditions, potential impacts on adjacent public lands and sensitive resources would be minimized.

## **6. FINDING**

The cultivation of 9,850 square feet of outdoor cannabis cultivation with ancillary propagation 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 35 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) The location of the proposed cannabis cultivation is more than 300 feet from the nearest off-site residence.
- d) Irrigation water will come from two (2) points of diversion (a spring and spring-fed pond) on the subject property, which are included under a Right to Divert and Use Water, issued by the State Water Resources Control Board (SWRCB) State Water Resources Control Board (SWRCB) in July 2018 (Registration No. H500860, Certificate No. H100115)I (spring diversion) and Final SAA, issued by the California Department of Fish and Wildlife (CDFW) in August 2019 (Notification No. 1600-2017-0420-R1) (both diversions). Conditions of approval require the applicant to continue to comply with the requirements of the Right to Divert and Use Water and Final SAA.
- e) 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**

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 and is currently developed with an existing residence. The approval of cannabis cultivation on this parcel will not conflict with the ability for the existing residence to continue to be utilized on this parcel.

**8. 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.

**9. EVIDENCE**

- a) Staff is supportive of continued use of the two (2) points of diversion from a spring and spring-fed pond for irrigation use, as proposed, due to the historic use of the diversions and measures are in place to protect resources and minimize potential impacts. 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.

**10. 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 Cape Mendocino Planning Watershed, which under Resolution 18-43 is limited to 650 permits and 223 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 234 permits and the total approved acres would be 81.2 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 Humboldt Natural Collective, 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 March 2, 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.

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