

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

Resolution Number 23-

Record Number PLN-12468-CUP

Assessor's Parcel Numbers: 210-072-009

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Cali's Finest Gardens, LLC, Conditional Use Permit.

WHEREAS, Cali's Finest Gardens, LLC, submitted an application and evidence in support of approving a Conditional Use Permit for the continued operation of an existing 30,000 square feet (sf) of outdoor cultivation, and appurtenant nursery, drying & processing activities; 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 Planning Commission held a duly-noticed public hearing on July 6, 2023, and reviewed, considered, and discussed the application for a 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:

FINDING: **Project Description:** A Conditional Use Permit for 30,000 square feet (sf) of pre-existing outdoor cannabis cultivation, with 4,110 sf of ancillary propagation. Planning staff is recommending that only 3,000 sf of ancillary propagation be permitted. Cultivation will utilize light-deprivation techniques in greenhouses without the use of supplemental lights. Water is sourced by an existing 345,000-gallon rain catchment pond, and an additional 70,000-gallon rain catchment pond is proposed. Annual water usage is estimated at 200,000 gallons (11 gal/sf/yr). Power is sourced from an existing solar array and three 7kW Honda generators will be on-site for emergency backup purposes. A full processing facility is proposed with ADA bathroom and septic. A total of five employees are used for operations on-site. One residence will be used for on-site employee housing.

EVIDENCE: Project File: PLN-12468-CUP

2. FINDING: **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Planning

Commission 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 to that document.

- 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) The project sources water from an existing 345,000-gallon rain catchment pond on-site, and an additional 70,000-gallon rain catchment pond is proposed.
 - d) The site was historically enrolled in the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R-1-2015-0023, under WDID 1B171807CHUM. The site is currently enrolled in the State Water Resources Control Board's (SWRCB) General Order (No. WQ 2019-0001-DWQ) for Waste Discharge Requirements and Water Quality. The applicant has submitted a Notice of Applicability letter dated November 15, 2019, showing enrollment in the General Order as a Tier 1 Low Risk site under WDID 1_12CC417947, and states the requirement for a Site Management Plan (SMP). The applicant has obtained an SMP prepared by Mother Earth Engineering, dated March 2020. The applicant shall adhere to the corrective actions, and the ongoing monitoring and winterization methods recommended in the SMP.
 - e) The applicant has obtained a Streambed Alteration Agreement with CDFW for the in-stream work needed to upgrade seven (7) stream crossings on-site (SAA No. 1600-2019-0662-R1). After a site visit was conducted on April 25, 2023, with the County and CDFW, it was determined that the applicant had not completed their SAA within the work of completion date. The applicant is required to submit an amendment for the SAA, and shall submit the revised CDFW signed and approved SAA to the County when available. The applicant shall adhere to the project description and work outlined within the revised SAA with CDFW.
 - f) The project is located approximately 1.9 miles to the nearest known Northern Spotted Owl (NSO) activity center. According to the California Natural Diversity Database (CNDDDB) for rare and endangered species, the project site may contain potential habitat for rare plant species Bolander's catchfly. As there is a proposed processing facility located where vegetation exists on-site, the applicant is required to obtain a Botanical Survey which verifies that no special status plants or trees considered timberland exist within the footprint of the proposed processing facility, prior to the issuance of building permits. The

applicant has obtained a Biological Reconnaissance Assessment and Onsite Relocation Plan (BRA) prepared by Mother Earth Engineering, dated June 2019. A site assessment was conducted on May 15, 2019, and found no special status plant species or special status wildlife species within the study area. One sensitive natural community was identified in the project area, the Oregon white oak. Recommendations within the BRA included: implementation of best management practices, no use of rodenticides, mitigation of generator noise, light prevention from greenhouses at night, and proper storage of fuel, fertilizers, pesticides, fungicides or other toxic substances. All recommendations are included in the ongoing conditions for the project, and the applicant is required to comply with International Dark Sky Standards for lighting within the propagation greenhouse, and shall ensure that all noise levels do not go above 50 decibels at 100-feet or any tree line when noise generating equipment are in use.

- g) It appeared that potential unauthorized timber conversion occurred on the site between 2010 and 2020, in association to the unpermitted residence and cannabis cultivation activities. The applicant had a Timber Conversion Evaluation Report (TCER) prepared by RPF Chris Carroll with Timberland Resource Consultants, dated January 16, 2020. The project and the TCER was referred to CalFire for review on January 26, 2022, and no comments were received by the agency. The TCER states that a site visit was conducted on December 20, 2019, and concludes that a total of 1.82 acres of timber harvesting occurred in two locations on the site which did not result in timberland conversion. No timber conversion has occurred on the site and none is proposed. The approval of this project does not approve any future timber conversion associated to the cannabis cultivation activities.
- h) An email was received by CDFW on February 27, 2020, which addresses concerns regarding the removal of oaks near the project area. A violation letter was sent by the County to the applicant on March 9, 2020, requesting a timber conversion evaluation from an RPF. The applicant submitted a Timber Conversion Evaluation with Restocking Plan and an Evaluation of Oak Restoration Report (EORR) on April 27, 2020, which were prepared by Timberland Resource Consultants. The EORR states that the true oak woodlands within the subject property are currently healthy and stable enough that restoration activities to remove the conifers would yield successful results and should occur. The applicant shall adhere to the oak restoration recommendations within the EORR for no less than 6.4 acres of oak woodlands with the potential to restore and additional 10.6 acres of habitat.
- i) The project is located within the Bear River Band Rancheria Aboriginal Ancestral Territory. The project was referred to the Bear River Band of Rohnerville Rancheria, and the Northwest Information Center (NWIC) on January 26, 2022. A response was received from the Bear River Band tribe on February 8, 2022, stating that the project did not appear

to represent a source of significant impacts on cultural resources, and requested that the applicant adhere to Inadvertent Discovery Protocols.

- j) Access to the project site is from privately maintained China Mine Road, from State Hwy 36. The applicant submitted a Road Evaluation Report (RER) form for State Hwy 36, dated April 16, 2020. The project was referred to the Department of Public Works on January 26, 2022, and comments were received by the agency on January 27, 2022. Comments from Public Works stated that the applicant submitted an incomplete RER which did not include the main access road China Mine Road, and mentions that multiple road evaluation reports have been submitted for China Mine Road. Public Works recommends that the various road evaluation reports be combined into one action plan. The applicant is required to enter into a Road Maintenance Association for China Mine Road, and the RMA will be required to construct the improvements in the final action plan. Additional comments from Public Works includes that the project is accessed off of a State Hwy, and the project should be referred to CalTrans. The project was referred to CalTrans on January 26, 2022, and comments were received on February 15, 2022. Comments from CalTrans included the recommended condition that the applicant improve the driveway to meet current CalTrans standard for a commercial road approach (driveway) with a minimum throat width of 20 feet. The site will be operated by the applicant and up to five (5) employees. A maximum of ten (10) vehicle trips are anticipated per day. The operations are pre-existing, and no increase in traffic is anticipated.

FINDINGS FOR CONDITIONAL USE 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 Timberland (T) and Agriculture General (AG) 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 and AE zone in which the site is located.

EVIDENCE a) The Timberland Production Zone (TPZ) and Agriculture Exclusive (AE) Zone is intended to be applied to areas of the County in which

general agriculture uses is a desirable use.

- b) All general agricultural uses are principally permitted in the TPZ and AE zone.
- c) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 43,560 square feet of existing outdoor cannabis and up to 22,000 sq. ft. of existing mixed-light cannabis on a parcel zoned TPZ or AE over 1 acre subject to approval of a Conditional Use Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for 30,000 sq. ft. of outdoor cultivation on a 270-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 and AE (HCC 314-55.4.8.2.2).
- b) The subject parcel has been determined to be a legal parcel per Notice of Merger processed as a Lot Line Adjustment in 1980, NOM Volume 1615 recorded records page 158.
- c) The project sources water from an existing 345,000-gallon rain catchment pond on-site, and an additional 70,000-gallon rain catchment pond is proposed.
- d) Access to the project site is from privately maintained China Mine Road, from State Hwy 36. The applicant submitted a Road Evaluation Report (RER) form for State Hwy 36, dated April 16, 2020. The project was referred to the Department of Public Works on January 26, 2022, and comments were received by the agency on January 27, 2022. Comments from Public Works stated that the applicant submitted an incomplete RER which did not include the main access road China Mine Road, and mentions that multiple road evaluation reports have been submitted for China Mine Road. Public Works recommends that the various road evaluation reports be combined into one action plan. The applicant is required to enter into a Road Maintenance Association for China Mine Road, and the RMA will be required to construct the improvements in the final action plan. Additional comments from Public Works includes that the project is accessed off of a State Hwy, and the project should be referred to CalTrans. The project was referred to CalTrans on January 26, 2022, and comments were received on February 15, 2022. Comments from CalTrans included the recommended condition that the applicant improve the driveway to meet current CalTrans standard for a commercial road approach (driveway) with a minimum throat width of 20 feet. The site will be operated by the applicant and up to five (5) employees. A maximum of ten (10) vehicle trips are anticipated per day. The operations are pre-

existing, and no increase in traffic is anticipated.

- e) It appeared that potential unauthorized timber conversion occurred on the site between 2010 and 2020, in association to the unpermitted residence and cannabis cultivation activities. The applicant had a Timber Conversion Evaluation Report (TCER) prepared by RPF Chris Carroll with Timberland Resource Consultants, dated January 16, 2020. The project and the TCER was referred to CalFire for review on January 26, 2022, and no comments were received by the agency. The TCER states that a site visit was conducted on December 20, 2019, and concludes that a total of 1.82 acres of timber harvesting occurred in two locations on the site which did not result in timberland conversion. No timber conversion has occurred on the site and none is proposed. The approval of this project does not approve any future timber conversion associated to the cannabis cultivation activities.
- f) 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, school bus stop, church or other place of religious worship, Public Park or Tribal Cultural Resource.

6. FINDING

The cultivation of 30,000 square feet of 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 or more 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.
- b) The project sources water from an existing 345,000-gallon rain catchment pond on-site, and an additional 70,000-gallon rain catchment pond is proposed.
- c) The parcel is located in an area known to have a Very High Fire Hazard Severity, and is within the Bridgeville Fire Protection District (BFPD) for local fire response. The project was referred to the BFPD on January 26, 2022, and no comments were received. The project is also located within the State Responsibility Area (SRA) for CalFire, and was referred to the agency on January 26, 2022. The Site Plan shows a firetruck turnaround, and a 2,500-gallon water tank designated for fire suppression needs only. The designated fire suppression tank shall have the appropriate fire hose that meets CalFire SRA requirements.

- d) Access to the project site is from privately maintained China Mine Road, from State Hwy 36. The applicant submitted a Road Evaluation Report (RER) form for State Hwy 36, dated April 16, 2020. The project was referred to the Department of Public Works on January 26, 2022, and comments were received by the agency on January 27, 2022. Comments from Public Works stated that the applicant submitted an incomplete RER which did not include the main access road China Mine Road, and mentions that multiple road evaluation reports have been submitted for China Mine Road. Public Works recommends that the various road evaluation reports be combined into one action plan. The applicant is required to enter into a Road Maintenance Association for China Mine Road, and the RMA will be required to construct the improvements in the final action plan. Additional comments from Public Works includes that the project is accessed off of a State Hwy, and the project should be referred to CalTrans. The project was referred to CalTrans on January 26, 2022, and comments were received on February 15, 2022. Comments from CalTrans included the recommended condition that the applicant improve the driveway to meet current CalTrans standard for a commercial road approach (driveway) with a minimum throat width of 20 feet. The site will be operated by the applicant and up to five (5) employees. A maximum of ten (10) vehicle trips are anticipated per day. The operations are pre-existing, and no increase in traffic is anticipated.

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 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.

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 site is located in the Van Duzen Planning Watershed, which under Resolution 18-43 is limited to 425 permits and 146 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 125 cultivation permits and the total approved acres would be 43.58 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 Conditional Use Permit for Cali’s Finest Gardens, 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 **July 6, 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