

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

Resolution Number 24-

Record Number PLN-11682-CUP

Assessor's Parcel Numbers: 216-271-013-000

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves VIPA Farmers, LLC Conditional Use Permit.

WHEREAS, Kalifornia Green Akers, MBC Kalifornia Green Akers, MBC provided an application and evidence in support of approving a Conditional Use Permit for 26,500 square feet of existing outdoor and 3,000 square feet of existing mixed light commercial cannabis cultivation for a total cultivation area of 29,500 square feet supported by a 2,950 square foot ancillary nursery.

WHEREAS, 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 May 2, 2024, 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:

- 1. FINDING:** **Project Description:** A Conditional Use Permit for 3,000 square feet of existing mixed light and 26,500 square feet of existing outdoor for a total of 29,500 square feet of commercial cannabis cultivation. Estimated annual water usage is 243,000 gallons and sourced from a well and a rainwater catchment pond is proposed. Total water storage is 68,000 gallons in tanks. Drying and processing, including trimming or packaging, will occur onsite. Existing residence is used to house permanent and seasonal employees. Power is provided by PGE with a generator for emergencies only.

EVIDENCE: a) Project File: PLN-11682-CUP

- 2. FINDING:** **CEQA.** The project complies with the requirements of the California

Environmental Quality Act. The Humboldt County 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 prepared for the project pursuant to Section 15164 of the CEQA guidelines.

- 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 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;
 - c) A Site Management Plan in compliance with the State Water Resources Control Board Cannabis General Order for Waste Discharge.
 - d) Northern Spotted Owl (NSO) habitat does not exist in the vicinity and the nearest activity center is over 5 miles from the site. The project is conditioned to adhere to 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. As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively impact NSO or other sensitive species.
 - e) An Investigation of Unpermitted Grading prepared by Whitchurch Engineering observed that previous grading appeared to have been done without any engineering control. Project conditions require remediation such as revegetating of cut and fill banks associated with benches areas with grasses/ erosion resistant foliage.
 - f) The project is conditioned requiring all development by removed from streamside management areas.
 - g) A Cultural Resource Study concluded no historic or prehistoric era resources were located on the project parcel pertaining to cultivation. No further archaeological study or mitigation measures were recommended for the project beyond inadvertent discovery protocol.

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 Rural Community Center (RCC) 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.

- b) General Plan 2017, Section 10.6.4 discusses methods to identify and protect sensitive cultural resources and archaeological artifacts, and methods to address development with the potential of losing or destroying those resources. An archaeological survey was completed, and no resources were found to be on the site or within proximity to the site

- 4. FINDING:** The proposed development is consistent with the purposes of the existing Forestry Recreation (FR) in which the site is located.

EVIDENCE: a) The FR Zone is applied to areas of the county in which general agriculture uses are the desirable predominant uses.

- b) All general agricultural uses are principally permitted in the FR Zone.

- c) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 43,560 SF of existing outdoor cannabis and up to 22,000 SF of existing mixed-light cannabis on a parcel 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 3,000 SF mixed light cultivation and 26,500 SF of outdoor on a 7-acre parcel is consistent with this and with the cultivation area verification prepared by the County.

- d) All cultivation is over 30 feet from all property lines and there are no public parks, churches, school bus stops or other sensitive receptors within 600 feet of the cultivation areas.

- 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 FR (HCC 314-55.4.8.2.2).
 - b) The subject property consists of two parcels, one that was created by an approved lot split in 1967 and that was conveyed to the property owner sometime shortly thereafter in what appears to have been intended to be a lot line adjustment. As a condition of approval, the property owner shall be required to submit a notice of merger to memorialize the historical lot line adjustment.
 - c) Irrigation water is provided by an existing permitted well that has been determined to likely be disconnected from surface waters.
 - d) Access to the site is by Alderpoint road which is a county-maintained category 4 road.
 - e) Existing cultivation is in areas mapped in 15% to 30% which is allowed under 314-55.4.8.2.2. The unpermitted grading must be resolved through compliance agreement per 314-55.4.11(a).
 - f) Power is sourced from PG&E with a generator for emergency backup only.
 - g) The cultivation of cannabis will not result in the net conversion of timberland post environmental baseline (January 1, 2016). No timber conversion is proposed.
 - h) 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, more than 300 feet from any off-site residence, more than 600 feet from any school, church, public park or Tribal Cultural Resource.

6. FINDING: The cultivation of commercial cannabis 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) Access to the site is by River Road via Alderpoint Road which are county maintained.
 - b) The site is in a rural part of the County where the typical parcel size is 40 acres. 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.

- c) The location of the existing cannabis cultivation is at least 30 feet from any property line per 314-55.4.11 (d).
- d) Irrigation water is sourced from an existing groundwater well. Per staff analysis of the well completion report, the well does not appear to be diverting from surface waters.
- e) A Site Management Plan (SMP) was prepared by Natural Resources Management Corporation for the subject site in January 2020 in compliance with the State Water Resources Control Board (SWRCB) Cannabis General Order for Waste Discharge (WQ2019-0001-DWQ). The SMP assesses compliance with the required elements and standard conditions established in the General Order to protect water quality from cannabis cultivation and related activities.

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.

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 is in the Middle Main Eel Planning Watershed which under Resolution No. 18-43 is capped at 360 permits and 125 acres of commercial cannabis cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 109 permits and the total approved acres would be 43.93 acres of total 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 Kalifornia Green Akers, MBC, LLC subject to the conditions of approval attached hereto as Attachment 1.

Adopted after review and consideration of all the evidence on **May 2, 2024**.

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