

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

Resolution Number 24-

**Record Numbers: PLN-11809-SP, PLN-2018-15238, PLN-2018-15242, and PLN-2018-15264
Assessor's Parcel Number: 216-281-015**

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Humboldt Heritage Farm Management, LLC Special Permits, Zoning Clearance Certificates, and Conditional Use Permit.

WHEREAS, Humboldt Heritage Farm Management, LLC applied for a Special Permit for 10,000 square feet (SF) of existing outdoor mixed-light cannabis cultivation, two Zoning Clearance Certificates for a total of 38,940 SF of mixed-light cannabis cultivation under the Retirement, Remediation, and Relocation (RRR) program, a Special Permit for 33,560 SF of new mixed-light cannabis cultivation and Conditional Use Permit for an 8,000 square-foot commercial nursery; and

WHEREAS, the County Planning Division, as lead agency, prepared an Addendum to the Final Environmental Impact Report (EIR) prepared for the Commercial Cannabis Land Use Ordinance (CCLUO) adopted by the Humboldt County Board of Supervisors on May 18, 2018. The proposed project does not present substantial changes that would require major revisions to the previous EIR. 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 June 6, 2024, and reviewed, considered, and discussed the application for the requested Special Permits, Zoning Clearance Certificates, and 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 Special Permit for 10,000 square feet (SF) of existing mixed-light cannabis cultivation (PLN-11809-SP), a Zoning Clearance Certificate for 18,940 SF of RRR mixed-light cannabis cultivation (PLN-2018-15238), a Zoning Clearance Certificate for 20,000 SF of RRR mixed-light cannabis cultivation (PLN-2018-15242), and a Special Permit for 33,560 SF of new mixed-light cannabis cultivation and Conditional Use Permit for an 8,000 square-foot commercial nursery (PLN-2018-15264). Total mature plant cultivation area will be 82,500 SF of mixed-light cannabis in greenhouses. There will also be 8,000 SF of propagation space to

support onsite operations. There will be a total of six employees utilized for operations. A two-story 4,800 square-foot employee bunkhouse is proposed to house employees on site. The farm will use approximately 1.2 million gallons of irrigation water annually sourced from an existing non-diversionary well and rain catchment and stored in tanks totaling 837,556 gallons. There is currently a 4,680 square-foot building onsite that is used for drying and storing harvested cannabis. The applicant proposes to turn this building into a processing facility in addition to the drying location for harvested cannabis. Power for the existing 10,000 SF of cultivation is provided by a 36-kilowatt (kW) diesel generator. The applicant has applied for service through Pacific Gas and Electric Company (PG&E). Solar arrays will be the primary source of power until renewable power from PG&E becomes available, with generator as emergency back-up only. Mixed-light cultivation will not occur until renewable PG&E power is secured. Outdoor light-deprivation techniques will be utilized in the interim.

EVIDENCE: a) Project Files: PLN-11809-SP, PLN-2018-15238, PLN-2018-15242, and PLN-2018-15264

2. FINDING: **CEQA.** The requirements of the California Environmental Quality Act have been met. The Humboldt County Planning Commission has considered the Environmental Impact Report (EIR) previously adopted for the Commercial Cannabis Land Use Ordinance as well as the Addendum to the EIR that was prepared for the Humboldt Heritage Farm Management, LLC project pursuant to Section 15164 of the CEQA guidelines.

EVIDENCE: a) Addendum to the EIR prepared for the proposed project in compliance with CEQA.

b) The proposed project does not present substantial changes that would require major revisions to the previous EIR. 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 Hydrological Isolation of Existing Well from Surface Waters (Hydrological Evaluation) was prepared by Lindberg Geologic Consulting in November 2022 to assess the existing well's potential for hydrological connectivity with any adjacent wetlands and surface waters, and if pumping the well could affect surface waters in nearby watercourses. As noted in the Hydrological Evaluation, the nearest

mapped watercourse to the well is noted to be an unnamed tributary to the Eel River, which is more than 550 feet east of the well. The next closest mapped watercourse is the Eel River, less than 900 feet west of the well. The well is noted to be 120 feet deep with the wellhead at an elevation of 500 feet. The elevation of the unnamed tributary of the Eel River to the east is approximately 500 feet and the elevation of the Eel River to the west is at an elevation of 260 feet. With the bottom of the well at an elevation of approximately 380 feet, the unnamed tributary is approximately 120 feet higher than the total depth elevation of the well, and the Eel River is approximately 120 feet lower than the total depth of the well, respectively. When considered with the stratigraphy and the underlying geologic structure, in addition to the distances (horizontal and vertically) from the nearest surface waters, and the depth of the producing zone, as well as the position of the well relative to the nearest surface waters in the vicinity, it is concluded in the Hydrological Evaluation that the depth of the surface seal and the upper 85 feet of the profile are sufficient to preclude the potential for hydraulic connectivity with surface waters. Thus, the water source from which this well draws appears to be a confined slightly artesian subsurface aquifer not demonstrably connected to any surface waters or unconfined, near-surface aquifer(s). As such, it is concluded that the well is likely to be hydraulically isolated from nearby wells, surface waters, springs, or wetlands, and would not have a negative impact or effect on surface waters. Based on the results of the Hydrological Evaluation, Planning staff is supportive of continued use of the well for the irrigation of cannabis on the subject property. Since the well was found to not be likely to be hydrologically connected to surface waters, the well does not require additional water rights from the State Water Resources Control Board and is not subject to forbearance or water storage requirements and is also not likely to impact public trust resources.

- d) A Site Management Plan (SMP; WDID 1B161173CHUM) was prepared by Green Road Consulting for the subject site in May 2019 and revised in April of 2024 in compliance with the State Water Resources Control Board (SWRCB) Cannabis General Order for Waste Discharge. The SMP provides an overview of existing site conditions and assesses compliance with the required elements and standard conditions established in the Order to protect water quality. As noted in the SMP, the existing cultivation area is noted to have a natural slope of approximately 4%, comprise a disturbed area of approximately 10,000 SF, and be located more than 160 and 180 feet from the nearest water bodies (Class II and Class III). Six (6) stream crossings

were identified on the subject property. Included in the SMP is a prioritized list of recommended treatments and actions to be implemented to meet the requirements of the Order. Specifically, seventeen (17) items were identified requiring remediation, including but not limited to installing or upgrading culverts, adding rock armoring and rip rap, installing rolling dips, covering and installing secondary containment on fuel tank, installation of erosion control measures, and removing cultivation related waste that is improperly stored throughout the site. The project is conditioned to require the applicant to implement all remaining corrective actions contained in the SMP.

- e) A Final Lake or Streambed Alteration Agreement (LSAA; Notification No. EPIMS-HUM-02552-R1) was issued by the California Department of Fish and Wildlife (CDFW) for six (6) encroachments, including upgrading and improving existing stream crossings (5 encroachments) and decommissioning an existing onstream pond. Work for the stream crossing upgrades has been completed and included excavation, removal of the existing culverts, replacement with new properly sized culverts or properly sized rock surface, backfilling and compaction of fill, and rock armoring as necessary to minimize erosion. Work related to the pond decommissioning includes excavation of dam, removal of existing spillway, installation of new properly sized culvert, backfilling and compaction of fill, and rock armoring of steam channels entering former pond site. Conditions of approval require the applicant to implement any remaining projects and to comply with the requirements established under the Final LSAA.

- f) Per review of CDFW's California Natural Diversity Database (CNDDDB) in January 2024, there is potential habitat for foothill yellow-legged frog associated with the pond on site. The nearest Northern Spotted Owl (NSO) positive sighting and activity center is located approximately 3.4 miles from the project site.
A Biological Resource Assessment was prepared by TransTerra Consulting in February of 2019 to assess the project's potential impact on biological resources. As noted in the Report, the project area is generally Mixed Evergreen Forest, Valley and Foothill Grassland, Cis-Montane Woodland, and Riparian Forest. Marshes and Riparian scrub in addition to other wetland vegetation is also present onsite. The site contains numerous watercourses, as well as natural and manmade wetlands. Regarding special status species, NSO observances or activity centers are not recorded within one mile of

the project area. The Report notes that habitat for NSO is marginal on the subject site for nesting owls due to stand age and structure, but conifer forest with deformed trees and species diversity is present. An observance of foothill yellow-legged frog was previously recorded onsite near the inlet of the pond. Observations of beaked tracyina have been made near the property and elsewhere in the Alderpoint quadrangle. In addition, the project area contains habitat for various rare or federally listed species.

The Report further notes that the potential direct, indirect, and cumulative effects of land clearing, residential development, and cultivation activities include the removal of vegetation and canopy cover, disturbance and compaction of soil, alteration of hydrologic regime, sedimentation and erosion, increase in invasive species, noise, solid and chemical waste pollution, and visual and air quality impacts. The proposed areas for new greenhouses are noted to be within an area mapped as containing a historic palustrine wetland; however, a subsequent wetland assessment confirmed that there are no wetlands that would be impacted by the project, as described below. Recommendations in the report include following all requirements and regulations outlined by existing agency policies for minimizing impacts to natural resources and implementing best management practices.

- g) Kyle Wear, Botanical Consultant conducted a Botanical Survey for the project site in June and July of 2023 to address potential impacts to sensitive botanical resources from commercial cannabis cultivation. The survey identified no special status plants or special status natural communities. Three invasive species with Cal-IPC ratings of High were observed on the property: Himalayan blackberry, French broom, and yellow starthistle. These species are identified in the Invasive Species Control Plan provided by the applicant and are planned for eradication. The survey concluded that the project will not impact special status plants or natural communities.

h) Kyle Wear, Botanical Consultant conducted a Wetland Assessment for the project site in October of 2022 to identify any wetlands that could constrain the proposed expansion of commercial cannabis cultivation. No wetlands were identified on or near the terrace where the expansion is proposed. The vegetation in the sample plots is composed predominantly of grasses and young shrubs indicative of upland conditions including wild oat, rattlesnake grass, Mediterranean barley, and young coyote brush. There are occasional stands of spreading rush, nut-sedge, and pennyroyal, but the vegetation does not meet the hydrophytic vegetation criteria because of the prevalence of upland plants.

The soil color is generally dark yellowish brown and does not meet any hydric soil indicators. The soil appears compacted from past land use. Information was provided that the terrace was used as a log deck in the past. Soil compaction reduces drainage and can increase surface ponding. Portions of the terrace are likely subject to occasional ponding after heavy rain events, but the water is not present frequently enough or for long enough duration to create hydric soil or hydrophytic vegetation.

i) A Cultural Resources Investigation was conducted by Archaeological Resource and Supply Company in June 2018. The report concludes that no significant archaeological or historic period cultural resources, that for the purposes of CEQA would be considered an historical resource, exist on the site proposed for cannabis cultivation. The project was referred to the Northwest Information Center (NWIC) and the Bear River Band of the Rohnerville Rancheria. After reviewing project materials, the Tribal Historic Preservation Officer for the Bear River Band of the Rohnerville Rancheria has requested that a Tribal Monitor from the Bear River Band be onsite during excavation activities (condition of project approval) and that the standard inadvertent discovery protocol be applied to the project. This has been included in the Informational Notes within the conditions of approval.

FINDINGS FOR SPECIAL PERMITS, ZONING CLEARANCE CERTIFICATES, AND 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 principally 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.

4. FINDING: The proposed development is consistent with the purposes of the existing Forestry Recreation (FR) and Special Combining Zone (B) zoning designations in which the site is located.

- EVIDENCE:**
- a) The FR zone is intended to be applied to forested areas of the County in which timber production and recreation are the desirable predominant uses and agriculture is the secondary use, and in which protection of the timber and recreational lands is essential to the general welfare. General agriculture, including the cultivation of cannabis, is a principally permitted use in this zoning district. The B zone is intended to be combined with any principal zone in which sound and orderly planning indicate that lot area and yard requirements should be modified.
 - b) Humboldt County Code section 314-55.4.6.1 allows cultivation of up to 43,560 SF of existing or new cannabis cultivation a parcel over 10 acres in size, subject to approval of a Special Permit. The parcel is approximately 63 acres in size, and the combined existing and new cultivation (not withstanding the RRR entitlements) will not exceed 43,560 SF.
 - c) Humboldt County Code section 314-55.4.6.5.9(b) allows relocation of cannabis cultivation from retired cultivation sites as entitlements of no more than 20,000 square feet with a Zoning Clearance Certificate in the FR zone. Section 314-55.4.6.5.9(d) allows for more than one relocation to occur on a single parcel on parcels ten acres or larger.

- d) Humboldt County Code section 314-55.4.7.3 allows commercial cannabis nurseries in the FR zone on a road that is not paved with a centerline stripe with a Conditional Use permit, provided that the application includes an evaluation of the local road network and relevant segments prepared by a licensed engineer that provides substantial evidence to support a finding that standards for the protection of public health and safety, including fire safe road access, capacity to support anticipated traffic volumes, water quality objectives, and protection of habitat can be met.
- e) The employee bunkhouse is an allowable use in the FR zone as no conditional use permit, zoning variance, or other discretionary zoning clearance shall be required of this employee housing that is not required of any other agricultural activity in the same zone pursuant to California Health and Safety Code Section 17021.6.
- f) All existing and proposed development meets the minimum yard setback requirements for the FR zone.

5. FINDING: The proposed development is consistent with the requirements of the CCLUO Provisions of the Zoning Ordinance.

- EVIDENCE:**
- a) The CCLUO allows cannabis activities to be permitted in areas zoned Forestry Recreation (FR) as described in Section 4 above.
 - b) The subject parcel is a separate legal parcel described as Parcel 2 on Parcel Map 2359 in Book 20 of Parcel Maps, Pages 147-148.
 - c) Solar arrays will be the primary source of power until renewable PG&E power becomes available, with an emergency generator as back-up only.
 - d) Irrigation water is sourced from rain catchment and a non-diversionary well on site.
 - e) Cultivation will occur on slopes of 15% or less.
 - f) The cultivation of cannabis will not result in conversion of timberland.
 - g) According to the Engineering-Geologic Prime Agricultural Soils Exploration Letter-Report prepared by Lindberg Geologic Consulting in March of 2023, the site soil should not be considered or classified

as prime agricultural soils per the CCLUO.

- h) The location of the cultivation site complies with three of the four setbacks required in Section 314-55.4.6.4.4 of Humboldt County Code. 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, public park, or Tribal Cultural Resource. The cultivation site is within 270 feet of the adjacent undeveloped parcel to the west-northwest (APN 216-281-005). The purpose of the 270-foot setback is to allow an adjacent property owner to develop a residence within 30 feet of their own property line while maintaining a 300-foot setback from any adjacent cultivation sites. In this case, due to constraints from building setback requirements, steep slopes, difficulty of access, and streamside management areas, future residential development on the adjacent parcel within 300 feet of the cultivation site would not be feasible.

- i) The property is accessed via Steelhead Road, a road connected to Highland Avenue, then county-maintained 6th Avenue. Steelhead Road traverses one property owned by the County (County Dump) before it reaches the driveway to the subject parcel. The applicant will be the only permit holder on Steelhead Road, and as such a Road Maintenance Association is not necessary. Humboldt County Code section 314-55.4.7.3 states that all Cannabis Support Facilities must be located on a paved road with a centerline stripe or a paved road meeting category 4 standards. Exceptions may be sought via a Conditional Use Permit provided the applicant provides an evaluation prepared by a licensed engineer to demonstrate that the road meets fire safe road access, capacity to support anticipated traffic volumes, water quality objectives, and protection of habitat. The applicant submitted a Road Evaluation Report prepared by Green Road Consulting in January of 2019 demonstrating that road has the capacity to support anticipated traffic volumes and all maintenance and recommendations within the Site Management Plan prepared for the parcel are in line with best management practices from Five Counties Salmonid Conservation Roads Maintenance Manual to protect water quality as well as aquatic, reptilian, amphibious, and aquatic invertebrate wildlife. The Department of Public Works has requested that a vehicle turn-out be provided on Steelhead Road halfway between 6th Avenue and the project site to achieve compliance with Fire Safe Regulations. This has been made a condition of approval.

- j) All use of supplemental lighting will comply with International Dark-Sky Standards
- k) The applicant has submitted a Sound Evaluation Report, which describes noise measurements taken at the north, west, south, and east property lines. The existing average decibel levels at the north, west, south, and east property lines when measurements were taken were 34.55, 41.34, 40.11, and 31.43 respectively. The project is conditioned to not to go over three decibels above the measured ambient noise levels found at each property line for the life of the project.
- l) A one-time purchase of 2,185 cubic yards of soil is expected to begin operations. All soil from the cultivation site will be reused and never dumped. Soil will be tilled, organic matter and nutrients will be added and living soil will be developed over time. The applicant will amend the soil every year with basic organic amendments, compost, and plant waste to enrich the biodiversity. No soil will be removed from the property.
- m) Invasive Species Plan has been submitted that identified plants proposed for control and eradication, including Himalaya blackberry, yellow starthistle, and French broom.

6. FINDING:

The project 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) All access roads on the property shall be maintained in compliance with the State Water Resources Control Board Order WQ 2019-0001-DWQ, which states that all access roads are to be hydrologically disconnected to receiving waters. To ensure that roads meet this condition, the applicant has implemented the erosion control measures outlined in the Site Management Plan that address replacing culverts and decommissioning crossings.

- b) 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 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 is sourced from rain catchment and a non-diversionary well on site.
- e) Provisions have been made in the applicant's proposal to protect water quality through yearly site inspection, monitoring, and reporting to the NCRWQCB. Annual reporting shall be submitted to the NCRWQCB. Therefore, runoff to adjacent property and infiltration of water to groundwater resources will not be adversely 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 included in the 2019 County Housing Inventory; however, there are no existing residences on the parcel, and none are proposed. The proposed project will not preclude development of a residence in the future.

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 in the Middle Main Eel Planning Watershed, which under Resolution 18-43 is limited to 360 permits and 125 acres of cultivation. With the approval of this project the total approved permits for cultivation in this Planning Watershed would be 106 and the total approved acres of cultivation would be 44.1.

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
- Approve the Special Permits, Zoning Clearance Certificates, and Conditional Use Permit (PLN-11809-SP, PLN-2018-15238, PLN-2018-15242, and PLN-2018-15264) for Humboldt Heritage Farm Management, LLC subject to the Conditions of Approval attached hereto as Attachment 1A; and
- Adopted after review and consideration of all the evidence on **June 6, 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