

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

**Resolution Number 23-**

**Record Number PLN-12284-SP**

**Assessor's Parcel Numbers: 511-251-026**

**Resolution by the Zoning Administrator of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Austin Gomm Special Permit.**

**WHEREAS**, **Austin Gomm** submitted an application and evidence in support of approving a Special Permit for 5,000 square feet of new indoor cannabis cultivation, and appurtenant nursery & drying 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 (CMLLUO) 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 a Special Permit 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:

**FINDING:**                    **Project Description:** A Special Permit for 5,000 square feet (SF) of new indoor cannabis cultivation in an existing 6,144 SF shop, with ancillary propagation. Irrigation water will be sourced from the McKinleyville Community Services District (MCSD). The applicant has obtained a Will-Serve letter from the MCSD allowing up to 2,600 cubic-feet (19,450 gallons) of water to be used monthly for the proposed cannabis facility. Total water storage is 5,000 gallons in one tank. Processing will be onsite in existing shop which is proposed to be converted into a commercial building to house the indoor cultivation, and drying and processing activities. Power for the operation will be provided by PGE.

**EVIDENCE:**                Project File: PLN-12284-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 the 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) The applicant will source water from the McKinleyville Community Services District (MCSD) and has obtained a Will-Serve letter from the MCSD.
  - d) The applicant has not enrolled in the State Water Resources Control Board's (SWRCB) General Order for Water Quality No. WQ 2019-001-DWQ. The applicant is conditioned to obtain proof of Conditional Exemption from the SWRCB, and submit to the Planning Division, prior to commencing cultivation activities on-site
  - e) The Cultivation & Operations Plan states that there are no culverts or stream crossings on the site. The applicant is not required to obtain a Lake or Streambed Alteration (LSA) Agreement with the California Department of Fish & Wildlife (CDFW) if there are no culverts or stream crossings on-site that require remediation.
  - f) The project is located approximately 0.48 miles to the nearest Northern Spotted Owl (NSO) activity center, and 0.54 miles to the nearest NSO observation in 2011. The project does contain wetlands and one perennial stream. According to the California Natural Diversity Database (CNDDB) for rare and endangered species, there is no habitat for rare or endangered species located on or near the subject parcel. The project was referred to CDFW on September 20, 2017, and comments were received on February 26, 2018. Comments from CDFW included a request for a baseline biological survey, and included the recommendation for conditional approval. All requested conditions from CDFW have been applied to the project, however a biological survey was not requested as the applicant has removed the 10,000 SF of mixed-light cultivation from the proposal. As all activities will occur within an existing fully enclosed structure, power will be provided by PG&E, and water will be provided by the MCSD, no significant impacts to biological resources are likely to occur from the proposed project.
  - g) The project was referred to CalFire on September 20, 2017, and comments were received on September 28, 2017. Comments from CalFire stated that Google Earth imagery suggests that an unpermitted conversion may have taken place in 2015 or 2016 for the installation of

the pump house and water tank in the north east corner of the property, and that this should be addressed prior to approval of the project. After further review from the Planning Division, there is no sufficient evidence to suggest that any significant timberland was converted on-site, and no further actions are required by the applicant.

- h) The project site is located in the Blue Lake Rancheria, Bear River Band and Wiyot Aboriginal Ancestral Territories. The project was referred to the Northwest Information Center (NWIC), the Blue Lake Rancheria Tribe, the Bear River Band Tribe, and the Wiyot Tribe on September 20, 2017. The NWIC replied on January 25, 2018, recommending that the local Native American tribes be contacted regarding traditional, cultural, and religious heritage values. The Blue Lake Rancheria Tribe commented on September 25, 2017, requesting a site inspection for the project area. The applicant obtained a Cultural Resource Investigation (CRI) prepared by William Rich M.A., RPA, with William Rich and Associates, dated September 2016. The CRI report states that no significant archaeological or historic period cultural resources exist within the limits of the proposed project. The CRI report was sent to the necessary tribes for review. Comments from the Blue Lake Rancheria Tribe and the Bear River Band Tribe stated that they had no further concerns about the project and requested Inadvertent Discover Protocols as a condition of approval for the project.
- i) Access to the project site is from County maintained Baird Road, from Mather Road, from Kemp Avenue. The project was referred to the Department of Public Works on September 20, 2017, and comments were received on May 4, 2018, recommending conditional approval for the project. The applicant shall adhere to the following recommendations from the Department of Public Works. The project will utilize a maximum of seven (7) employees during peak operations, and the applicant anticipates a maximum of fourteen (14) vehicle trips to and from the site per day. The applicant submitted a Road Evaluation Report with photos for the 0.2 mile section of Kemp Avenue, and for the 0.4 miles of Mather Road, designating both roads as being developed to the equivalent of a category 4 road standard. The subject project is the only cannabis application off of these roads, and the private roads are maintained by the applicant and his neighbors. It has been determined that the existing access roads meet the functional capacity needed for the project.

### **FINDINGS FOR SPECIAL 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) The proposed project is not located within an Open Space Action

Program because the project site is not planned or zoned as open space, does not have a combining zone that would be considered open space, and there are no other open space general plan or zoning code overlays affecting this project.

**4. FINDING**

The proposed development is consistent with the purposes of the existing AG zone in which the site is located.

**EVIDENCE**

- a) The Agricultural General or AG 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 AG zone.
- c) Humboldt County Code section 314-55.4.8.3 allows cultivation of up to 5,000 square feet (sq. ft.) of new indoor cannabis cultivation on a parcel zoned AG over 5 acres subject to approval of a Special Permit. Electrical power for indoor cultivation operations shall be provided by on-grid power 100% renewable source, on-site zero net energy renewable source, or with purchase of carbon offsets of any portion of power not from renewable sources. The application for 5,000 sq. ft. of indoor cultivation on a 6.5-acre parcel, with PG&E and the condition to source power with 100% renewable source, is consistent with this.

**5. FINDING**

The proposed development is consistent with the requirements of the CMMLUO Provisions of the Zoning Ordinance.

**EVIDENCE**

- a) The CMMLUO allows new indoor cannabis cultivation to be permitted in areas zoned AG (HCC 314-55.4.8.3).
- b) Per Lot Line Adjustment 25-93 Notice of Lot Line Adjustment Certificate of Subdivision Compliance 1994-5181, the subject parcel is one legal parcel.
- c) The applicant will source water from the McKinleyville Community Services District (MCSD) and has obtained a Will-Serve letter from the MCSD.
- d) Access to the project site is from County maintained Baird Road, from Mather Road, from Kemp Avenue. The project was referred to the Department of Public Works on September 20, 2017, and comments were received on May 4, 2018, recommending conditional approval for the project. The applicant shall adhere to the following recommendations from the Department of Public of Works. The project will utilize a maximum of seven (7) employees during peak operations, and the applicant anticipates a maximum of fourteen (14) vehicle trips to and from the site per day. The applicant submitted a Road Evaluation Report with photos for the 0.2 mile section of Kemp Avenue, and for

the 0.4 miles of Mather Road, designating both roads as being developed to the equivalent of a category 4 road standard. The subject project is the only cannabis application off of these roads, and the private roads are maintained by the applicant and his neighbors. It has been determined that the existing access roads meet the functional capacity needed for the project.

- e) The project was referred to CalFire on September 20, 2017, and comments were received on September 28, 2017. Comments from CalFire stated that Google Earth imagery suggests that an unpermitted conversion may have taken place in 2015 or 2016 for the installation of the pump house and water tank in the north east corner of the property, and that this should be addressed prior to approval of the project. After further review from the Planning Division, there is no sufficient evidence to suggest that any significant timberland was converted on-site, and no further actions are required by the applicant.
- 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, or Tribal Cultural Resource.

## **6. FINDING**

The cultivation of 5,000 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 not 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.
- b) The applicant will source water from the McKinelyville Community Services District (MCSD) and has obtained a Will-Serve letter from the MCSD.
- c) Access to the project site is from County maintained Baird Road, from Mather Road, from Kemp Avenue. The project was referred to the Department of Public Works on September 20, 2017, and comments were received on May 4, 2018, recommending conditional approval for the project. The applicant shall adhere to the following recommendations from the Department of Public of Works. The project will utilize a maximum of seven (7) employees during peak operations, and the applicant anticipates a maximum of fourteen (14) vehicle trips to and from the site per day. The applicant submitted a Road Evaluation

Report with photos for the 0.2 mile section of Kemp Avenue, and for the 0.4 miles of Mather Road, designating both roads as being developed to the equivalent of a category 4 road standard. The subject project is the only cannabis application off of these roads, and the private roads are maintained by the applicant and his neighbors. It has been determined that the existing access roads meet the functional capacity needed for the project.

**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 Mad River Planning Watershed, which under Resolution 18-43 is limited to 334 permits and 115 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 74 cultivation permits and the total approved acres would be 26.9 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 Permit for Austin Gomm, 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