

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

Resolution Number: 23-

Record Number: PLN-11978-CUP

Assessor's Parcel Number: 522-024-002

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Evergreen Family Farm, LLC, Conditional Use Permit and Special Permit.

WHEREAS, Evergreen Family Farm, LLC, submitted an application and evidence in support of approving a Conditional Use Permit for the continued operation of an existing 10,288 SF of mixed-light and 11,400 SF of outdoor cannabis cultivation operation with appurtenant propagation, drying, and processing activities, and a Special Permit for work within the Streamside Management Area (SMA) associated with the decommissioning of an onstream pond, and to allow for associated remediation activities within the SMA.; and

WHEREAS, the County Planning Division, the lead agency, prepared an Addendum to the Final 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. 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; and

WHEREAS, the Humboldt County Planning Commission held a duly-noticed public hearing on October 19, 2023, and reviewed, considered, and discussed the application for the 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 21,688 square feet (SF) of existing cannabis cultivation, consisting of 10,288 SF of mixed-light and 11,400 SF of outdoor cannabis cultivation, and a 1,000 SF nursery and 2,000 SF nursery to serve the proposed project and the proposed project on the adjacent parcel (APN 522-025-003/522-024-005), which is also host to an existing cannabis operation that is pursuing a permit concurrent with the subject project. Irrigation water is sourced from a permitted groundwater well that serves the subject parcel and the adjacent parcel. Total water storage for both parcels is 49,500 gallons and consists of 3 2,500-gallon tanks for fire suppression, 4 5,000-gallon tanks for irrigation, 6 2,500-gallon tanks

for irrigation, 3 1,500-gallon tanks for irrigation, and 1 2,500-gallon tank for domestic use. An additional 150,000 gallons of tank storage is proposed to support irrigation needs. Total annual water use for both parcels is 312,000-gallons. The applicant proposes to consolidate all mixed-light greenhouses and nurseries to CA #1 located near Cabin #1. The proposed configuration allows the cultivator to use 1 generator rather than 4 generators spread out across the entire parcel. Product will be dried onsite in an existing shed and further processing will occur offsite at a licensed processing facility until Cabin #3 is upgraded to commercial/Americans with Disabilities Act (ADA) standards. Electricity for cultivation operations is supplied by solar arrays and diesel generators. Solar panels provide power for greenhouse exhaust fans. A diesel generator (Honda 7000) is used to supply power to mixed-light greenhouses and nurseries located at CA # 1. Domestic power is supplied by diesel generators. Domestic wastewater treatment is managed via three septic systems for the existing cabins. The operation is staffed by up to 3 full-time employees and 4 part-time seasonal employees shared between APNs 522-024-002 and APN 522-025-003/522-024-005. A Special Permit is also requested for work within the Streamside Management Area (SMA) associated with the decommissioning of an onstream pond, and to allow for associated remediation activities within the SMA.

EVIDENCE a) Project File: PLN-11978-CUP

- 2. FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The 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 adopted by the Humboldt County Board of Supervisors on January 26, 2016.

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 Water Resource Protection Plan (WRPP) prepared by Pacific Watershed Associates Inc. in May 2017 evaluated if the site met the standard conditions of compliance. As a condition of approval, the applicant shall implement the corrective or remedial actions listed in the WRPP. On September 7, 2023, CDFW staff observed activities that were in violation of Fish and Game Code (FGC) section 1602. Notably, CDFW observed substantial sediment discharge to Waters of

the State through erosion of hydrologically connected roads. CDFW requests, as a condition of project approval, that the applicant implement a stormwater plan (Site Management Plan) to direct surface flow away from streams to mitigate the existing threats of sediment delivery. In addition, those recommendations developed under any future Site Management Plan to be developed for the parcels, pursuant to Tier 2 enrollment under the State Water Resources Control Board (SWRCB) General Order shall also be followed.

- d) A Lake and Stream Bed Alteration Agreement (LSAA) notification was submitted to the California Department of Fish and Wildlife (CDFW) on November 30, 2020. CDFW issued Notification No. EPIMS-HUM-13648-R1C on July 13, 2021, for one point of diversion for domestic use, one onstream reservoir removal, and replacement of 2 culverts on the subject parcel. On September 7, 2023, CDFW observed violations of Fish and Game Code (FGC) 1602 that were not in compliance with the LSAA. Notably, CDFW observed unauthorized surface water diversion for irrigation of cannabis cultivation from a tributary to Supply Creek during the forbearance period. Additionally, no water metering was occurring as required, and no monitoring reports have been submitted to CDFW as required, resulting in the applicant being out of compliance with the LSAA. CDFW requests, as a condition of project approval, that all FGC violations are cured, and that the applicant becomes in compliance with the LSAA
- e) No Biological Assessment Report was prepared for the project. The onstream pond decommissioning will be permitted by CDFW. If there are any potential impacts to wildlife from this project, CDFW will require mitigation in their Agreement. The grading required to decommission the pond is allowed with the Special Permit that is being requested. The nearest spotted owl activity center is approximately 1.1 miles east of the project site and additional owl activity centers are further from the project site in all directions. Generators are used to supply power to the cabins and mixed-light cultivation areas/nurseries. Generators will be shielded to not exceed 50 decibels at tree lines or potential habitat areas. Based on the manufacturer's noise ratings for the proposed generators, noise levels are not expected to exceed the thresholds listed above. The project is conditioned to ensure that generator or other operational equipment created noise meets the noise level threshold. Conformance will be evaluated using current auditory disturbance guidance prepared by the United States Fish and Wildlife Service. Conditions of approval also require the applicant to submit a revised 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), how the size of the generators are reasonable based on the power demand, and how the

operation will transition to use of 100% renewable energy (e.g., solar, wind, and/or hydropower) sources by January 1, 2026, with a generator to be used for emergencies only. The project has been conditioned to ensure supplemental lighting associated with mixed-light cultivation is fully contained with blackout tarps and have all outside lighting on timers or motion sensors to reduce light exposure to wildlife and their potential habitat. Furthermore, the project is conditioned to adhere to Dark Sky Association standards for greenhouse lighting and security lighting, 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 affect northern spotted owl or other sensitive species.

- f) A Cultural Resources Inventory Report (CRIR) was prepared by Dimitra Zalarvis-Chase M.A., R.P.A. in August of 2022. Two cultural resources were observed and recorded as a result of survey efforts. Both resources were recorded on Department of Parks and Recreation (DPR) 523 forms. As a result, conditions were recommended for the project. It was concluded that there will be No Effect to historical, archaeological, or Tribal Cultural Resources, as defined by CEQA with adherence to the recommended conditions. It was also recommended that the inadvertent discovery protocol be followed.
- g) A Road Evaluation Report was prepared for 3 Creeks Road from Highway 299 to the private drive on APN 522-025-003. The report identified 3 Creeks Road as developed to the functional equivalent of a road category 4 standard and adequate for the proposed use without further review. 3 Creeks Road is partially county maintained.

FINDINGS FOR CONDITIONAL USE PERMIT AND 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) General agriculture is a use type permitted in the Timber Production Zone (TPZ) 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-Zone in which the site is located.

- EVIDENCE**
- a) The TPZ zone is applied to areas of the County in which timber production and recreation is the desirable predominant uses and general agriculture is the secondary 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 43,560 SF of existing outdoor cannabis and up to 22,000 SF of existing cannabis cultivation on a parcel over 5 acres subject to approval of a Conditional Use Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application is for 21,688 SF of mixed-light and outdoor cultivation on a parcel 160-acres in size.
 - d) The onstream pond decommissioning will be permitted by CDFW. If there are any potential impacts to wildlife from this project, CDFW will require mitigation in their Agreement. The grading required to decommission the pond is allowed with the Special Permit that is being requested.

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 (Section 314-55.4.8.2.2).
 - b) The parcel was created by Patent, Certificate No. 9504 on August 17, 1904.
 - c) The project will obtain water from a permitted groundwater well (16/17-1318).
 - d) A Road Evaluation Report was prepared for 3 Creeks Road from Highway 299 to the private drive on APN 522-025-003. The report identified 3 Creeks Road as developed to the functional equivalent of a road category 4 standard and adequate for the proposed use without further review. 3 Creeks Road is partially county maintained.
 - e) The slope of the land where cannabis will be cultivated is less than 15%.
 - f) The location of the cultivation complies with all setbacks required in Section 314-55.4.11.d. It is more than 30 feet from any property line and more than 600 feet from any school, church, public park, or Tribal Cultural Resource.

6. FINDING: The cultivation of 21,688 SF of mixed-light and outdoor 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 located on Old 3 Creeks Road, a partially county-maintained road and the Road Evaluation Report concluded that the entire road segment is developed to the functional equivalent of a road category 4 standard.
 - b) The site is in a rural part of the county where the typical parcel size is over 25–40 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 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 sizes in the area.
 - c) Irrigation water will come from a groundwater well that has been permitted by the Division of Environmental Health.
 - d) 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:** 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 Lower Trinity Planning Watershed, which under Resolution 18-43 is limited to 169 permits and 58 acres of cultivation. With the approval of the project the total approved permits in this Planning Watershed would be 62 permits and the total approved acres would be approximately 27.1 acres of cultivation. If all of the Supply Creek projects on the October 19, 2023 Planning Commission agenda are approved there would be a total of 73 permits and 34 acres approved within the Lower Trinity Planning Watershed.

- 8. 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.

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 and Special Permit for Evergreen Family Farm, LLC subject to the conditions of approval attached hereto as Attachment 1A.

Adopted after review and consideration of all the evidence on October 19, 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