

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

Resolution Number: 22-

Record Number: PLN-11816-CUP

Assessor's Parcel Number: 221-201-007

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Georgi Stoyanov Conditional Use Permit and Special Permit request.

WHEREAS, Georgi Stoyanov, submitted an application and evidence in support of approving a Conditional Use Permit for 11,600 square feet (SF) of existing outdoor cannabis cultivation grown utilizing light deprivation techniques and 1,160 SF of ancillary propagation. Irrigation water is currently sourced from a permitted well and three (3) stream diversions; however, the applicant will discontinue use of the well until the well is assessed for hydrologic connectivity and proposes to add rainwater catchment. Estimated annual water use is 164,100 gallons. There will be a total of 102,350 gallons of onsite water storage. Processing occurs onsite within a two-story ag building. A maximum of three (3) people will be onsite during peak operations. Power is provided by Pacific Gas and Electric Company (PG&E). A Special Permit is also requested for development within the Streamside Management Area for the continued use and maintenance of the points of diversion; 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 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 December 15, 2022, and reviewed, considered, and discussed the application for a Conditional Use Permit and Special 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: The application is a Conditional Use Permit for 11,600 square feet (SF) of existing outdoor cannabis cultivation grown utilizing light deprivation techniques and 1,160 SF of ancillary propagation. Irrigation water is currently sourced from a permitted well and three (3) stream diversions; however, the applicant will discontinue use of the well until the well is assessed for hydrologic connectivity and proposes to add rainwater catchment. Estimated annual water use is 164,100 gallons. There will be a total of 102,350 gallons of onsite water storage. Processing occurs

onsite within a two-story ag building. A maximum of three (3) people will be onsite during peak operations. Power is provided by Pacific Gas and Electric Company (PG&E). A Special Permit is also requested for development within the Streamside Management Area for the continued use and maintenance of the points of diversion.

EVIDENCE a) Project File: PLN-11816-CUP.

2. FINDING

CEQA. The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Planning Commission has considered the Addendum to and 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.

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 Resources Protection Plan (WRPP; WDID 1B171719CHUM) was prepared by Timberland Resource Consultants in September 2017 and revised in July 2018 in compliance with the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R1-2015-0023, and a Notice of Applicability was submitted by the applicant to show compliance with the State Water Board Cannabis General Order for Waste Discharge. Conditions of approval require the applicant to comply with the State Water Resources Control Board Cannabis Cultivation Policy, which includes development and implementation of a Site Management Plan, and maintain enrollment in the State Cannabis Cultivation Policy for the life of the project.

d) California Department of Fish and Wildlife Resource Maps indicate summer-run steelhead (*Oncorhynchus mykiss*) have the potential to be present in the Mattole River, which runs adjacent to the western boundary of the subject parcel. Northern Spotted Owl habitat exists in the vicinity and the nearest positive sighting is 2.11 miles from the cultivation area, with the nearest activity center located approximately 2.55 miles away. The project is located outside of all required SMA buffers and all water diversions are permitted by CDFW and the SWRCB. Conditions of approval will require noise to be at below 50 decibels at 100 feet which is below the guidance established by the California Department of Fish and Wildlife for protection of the species. Conditions of approval also require implementation of measures from the WRPP, Final SAA, and Right to Divert and Use Water which will prevent sediment discharge and prevent any impact to the Mattole River. 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) The cultivation of cannabis will not result in the net conversion of timberland. A review of historic aerial imagery dating back to 2004 indicates a large open area existed within the southeastern corner of the property at this time, and that approximately five (5) trees were removed during the development of the cultivation areas between 2010 and 2012. . The project is conditioned to require the property be evaluated by a Registered Professional Forester (RPF) to determine the amount of timber conversion that occurred and submit a Timber Conversion Report from a RPF and/or a Less Than Three Acre Conversion Exemption or Timber Conversion Permit from CalFire, as determined necessary by the RPF, to address previously unpermitted timber conversion. The applicant is required to adhere to and implement any recommendations made by the RPF.
- f) The Cultural Resources referral process carried out by staff concluded that the proposed project will not result in any adverse changes to historical or archaeological resources and recommended Inadvertent Discoveries Protocol, which was also recommended by the Bear River Band of the Rohnerville Rancheria in February 2020.
- g) A Road Evaluation Report for a 0.7-mile segment of Dutyville Road from Ettersburg-Honeydew Road to the subject property was prepared by the applicant in January 2020, which indicates that the roadway is developed to the equivalent of a road Category 4 standard or better and is suitable for safe access to and from the project site. The project is conditioned to maintain all driveways and private road intersections onto the County road in accordance with the County’s Sight Visibility Ordinance (County Code §341-1) and improve the access road that serves the project to current commercial driveway standard. Additionally, to ensure access to the site is adequately maintained, as a condition of approval, the applicant shall join the “Dutyville Friends of the Road” Road Maintenance Association, provide evidence of enrollment, and pay fair share costs associated with maintaining Dutyville Road.

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 Residential Agriculture (RA) 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) zone in which the site is located.

EVIDENCE

- a) The Forestry Recreation or FR Zone is intended to be applied to areas of the County in which timber production and recreation are the desirable predominant uses and agriculture is the secondary use.
- 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 square feet of existing outdoor cannabis and up to 22,000 square feet 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 11,600 square feet of outdoor cultivation on a 40-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 FR (HCC 314-55.4.8.2.2).
- b) The parcel was created in compliance with all applicable state and local subdivision regulations, as it was created in its current configuration by Creation Deed (1911-18120), recorded December 30, 1971.
- c) Irrigation water is currently sourced from a permitted groundwater well (Permit No. 18/19-1053) that is also registered with the California Department of Water Resources (WCR2019-010444) and three (3) stream diversions. The applicant proposes to add rainwater catchment and additional water storage on the subject site. Additionally, the applicant will discontinue use of the well until the well is assessed for hydrologic connectivity.

A Right to Divert and Use Water was issued for the three (3) points of diversion by the SWRCB (Registration No. H504738, Certificate No. H100939) in January 2019 for irrigation use, which limits the amount of water that may be diverted to 0.15 acre-feet (or 48,878 gallons) per year. The total storage capacity is also limited to 0.15 acre-feet (48,878 gallons). Based on information provided by the applicant, the total estimated annual water usage associated with the project (164,100 gallons) equates to approximately 335.7% of the water appropriated, which is more than three times the amount of water that is allowed to be diverted under the appropriative right. As such, Planning staff determined the water diversions

alone are not sufficient to serve the proposed project. Additionally, the amount of existing water storage (82,350 gallons) exceeds the total storage amount permitted under the appropriative right (48,878 gallons).

The applicant plans to add and collect rainwater from the gutters of the two-story ag barn with a footprint of approximately 2,688 SF (32'X84') and add 20,000 gallons of additional water storage. Based on the impermeable rainwater catchment area of 2,688 SF, and an average rainfall amount of 81.19 inches, the site's potential capture amount totals 135,308 gallons per year, on average. When compared to the estimated annual water usage amount (164,100 gallons), Planning staff believes there will be sufficient water supply available from the rainwater catchment system, once installed, and the points of diversion to serve the project.

However, even with the additional 20,000 gallons of water storage proposed, total onsite water storage (102,350 gallons) will be below the total amount of water required annually for the project (164,100 gallons) by 61,750 gallons. To ensure sufficient water is available to serve the project, conditions of approval require an additional 61,750 gallons of water storage (in addition to the 20,000 gallons already proposed for the rainwater catchment system), at a minimum, to be added onsite in a previously disturbed area without the use of heavy machinery, and be filled prior to the 2023 cultivation season. Only up to 48,878 total gallons of onsite water storage may be filled by the point of diversions in accordance with the Right to Divert and Use Water, which means, at a minimum, the other 115,222 gallons of water storage required for the project must be derived from rainwater catchment. Should the applicant be unable to install the additional water storage tanks and/or catch the amount of water needed from the rainwater catchment system to meet the annual water demand (i.e., the additional water storage tanks are not filled) prior to the 2023 cultivation season, the applicant shall reduce their cultivation amount to 2,852 SF until such time the applicant can install the additional water storage tanks and demonstrate they are filled by the rainwater catchment system. This cultivation amount equates to the amount of cultivation that can be supported during the forbearance period by the amount of water available within the water storage tanks supported by the points of diversion (48,878 gallons) and the applicant's average annual water usage (14.14 gal/SF).

Additional conditions of approval require the applicant to monitor water use from the points of diversion, the rainwater catchment system (once operational), and water storage tanks annually to demonstrate there is sufficient water available to meet operational needs. Additionally, the project is conditioned to implement all terms and conditions of the Final SAA and the Right to Divert and Use Water. Furthermore, the applicant shall submit a Notification of Lake or Streambed Alteration Agreement and

obtain a Final SAA from CDFW for the third point of diversion not currently included under the Final SAA and/or revise the current SAA accordingly, as applicable, for the additional point of diversion utilized and for the point of diversion currently noted to only be utilized for domestic use only (POD 3; Notification No. 1600-2017-0156-R1), and adhere to all terms and conditions.

- d) A Road Evaluation Report for a 0.7-mile segment of Dutyville Road from Ettersburg-Honeydew Road to the subject property was prepared by the applicant in January 2020, which indicates that the roadway is developed to the equivalent of a road Category 4 standard or better and is functionally appropriate for the expected traffic. The project is conditioned to maintain all driveways and private road intersections onto the County road in accordance with the County's Sight Visibility Ordinance (County Code §341-1) and improve the access road that serves the project to current commercial driveway standard. Additionally, to ensure access to the site is adequately maintained, as a condition of approval, the applicant shall join the "Dutyville Friends of the Road" Road Maintenance Association, provide evidence of enrollment, and pay fair share costs associated with maintaining Dutyville Road.
- e) The slope of the land where cannabis will be cultivated is less than 5%, as described by the Water Resources Protection Plan (WRPP) prepared by Timberland Resource Consultants in September 2017 and revised in July 2018.
- f) The cultivation of cannabis will not result in the net conversion of timberland. A review of historic aerial imagery dating back to 2004 indicates a large open area existed within the southeastern corner of the property at this time, and that approximately five (5) trees were removed during the development of the cultivation areas between 2010 and 2012. The project is conditioned to require the property be evaluated by a Registered Professional Forester (RPF) to determine the amount of timber conversion that occurred and submit a Timber Conversion Report from a RPF and/or a Less Than Three Acre Conversion Exemption or Timber Conversion Permit from CalFire, as determined necessary by the RPF, to address previously unpermitted timber conversion. The applicant is required to adhere to and implement any recommendations made by the RPF.
- g) 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 11,600 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 located on road that has been certified to safely accommodate the amount of traffic generated by the proposed cannabis cultivation. Conditions of approval require the applicant to maintain all driveways and private road intersections onto the County road in accordance with the County's Sight Visibility Ordinance (County Code §341-1), improve the access road that serves the project to current commercial driveway standards, join the "Dutyville Friends of the Road" Road Maintenance Association, and provide fair-share costs associated with maintenance of the road.
 - 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 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.
 - c) Irrigation water is currently sourced from a permitted groundwater well (Permit No. 18/19-1053) that is also registered with the California Department of Water Resources (WCR2019-010444) and three (3) stream diversions. The applicant proposes to add rainwater catchment and additional water storage on the subject site. Additionally, the applicant will discontinue use of the well until the well is assessed for hydrologic connectivity.

A Right to Divert and Use Water was issued for the three (3) points of diversion by the SWRCB (Registration No. H504738, Certificate No. H100939) in January 2019 for irrigation use, which limits the amount of water that may be diverted to 0.15 acre-feet (or 48,878 gallons) per year. The total storage capacity is also limited to 0.15 acre-feet (48,878 gallons). Based on information provided by the applicant, the total estimated annual water usage associated with the project (164,100 gallons) equates to approximately 335.7% of the water appropriated, which is more than three times the amount of water that is allowed to be diverted under the appropriative right. As such, Planning staff determined the water diversions alone are not sufficient to serve the proposed project. Additionally, the amount of existing water storage (82,350 gallons) exceeds the total storage amount permitted under the appropriative right (48,878 gallons).

The applicant plans to add and collect rainwater from the gutters of the two-story ag barn with a footprint of approximately 2,688 SF (32'X84') and add 20,000 gallons of additional water storage. Based on the impermeable rainwater catchment area of 2,688 SF, and an average rainfall amount of 81.19 inches, the site's potential capture amount totals 135,308 gallons per

year, on average. When compared to the estimated annual water usage amount (164,100 gallons), Planning staff believes there will be sufficient water supply available from the rainwater catchment system, once installed, and the points of diversion to serve the project.

However, even with the additional 20,000 gallons of water storage proposed, total onsite water storage (102,350 gallons) will be below the total amount of water required annually for the project (164,100 gallons) by 61,750 gallons. To ensure sufficient water is available to serve the project, conditions of approval require an additional 61,750 gallons of water storage (in addition to the 20,000 gallons already proposed for the rainwater catchment system) to be added onsite in a previously disturbed area without the use of heavy machinery, and be filled prior to the 2023 cultivation season. As previously described, only up to 48,878 total gallons of onsite water storage may be filled by the point of diversions in accordance with the Right to Divert and Use Water, which means, at a minimum, the other 115,222 gallons of water storage required for the project must be derived from rainwater catchment. Should the applicant be unable to install the additional water storage tanks and/or catch the amount of water needed from the rainwater catchment system to meet the annual water demand (i.e., the additional water storage tanks are not filled) prior to the 2023 cultivation season, the applicant shall reduce their cultivation amount to 2,852 SF until such time the applicant can install the additional water storage tanks and demonstrate they are filled by the rainwater catchment system. This cultivation amount equates to the amount of cultivation that can be supported during the forbearance period by the amount of water available within the water storage tanks supported by the points of diversion (48,878 gallons) and the applicant's average annual water usage (14.14 gal/SF).

Additional conditions of approval require the applicant to monitor water use from the points of diversion, the rainwater catchment system (once operational), and water storage tanks annually to demonstrate there is sufficient water available to meet operational needs. Additionally, the project is conditioned to implement all terms and conditions of the Final SAA and the Right to Divert and Use Water. Furthermore, the applicant shall submit a Notification of Lake or Streambed Alteration Agreement and obtain a Final SAA from CDFW for the third point of diversion not currently included under the Final SAA and/or revise the current SAA accordingly, as applicable, for the additional point of diversion utilized and for the point of diversion currently noted to only be utilized for domestic use only (POD 3; Notification No. 1600-2017-0156-R1), and adhere to all terms and conditions.

- 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 To provide minimum standards pertaining to the use and development of land located within Streamside Management Areas (SMAs) and other wet areas (OWA) to implement the County's Open Space Element of the General Plan.

- EVIDENCE**
- a) Conditions of approval require the applicant to adhere to and implement the projects and recommendations contained in the Final SAA and provide evidence to the Planning Department that the projects included in the Final SAA are completed to the satisfaction of CDFW. Conditions of approval also require the applicant to adhere to the terms and conditions of the Right to Use and Divert Water issued by the State Water Resources Control Board (SWRCB). By implementing permit conditions from the SWRCB and CDFW, impacts to the SMA are minimized.
 - b) Based on review of the Site Plan, a small portion of the area shown as "graded flat/disturbed area" in the southeastern portion of the property appears to be located within a required Streamside Management Area (SMA) buffer. As such, a qualified professional (i.e., professional biologist) shall assess the disturbed area located within the SMA buffer and prepare a Remediation Plan to be implemented by the applicant, as necessary, to mitigate for any impacts to the SMA.

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 is currently developed with an existing residence. The approval of cannabis cultivation on this parcel will not conflict with the ability for the existing residence to continue to be utilized on this parcel.

9. 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 Cape Mendocino Planning Watershed, which under Resolution 18-43 is limited to 650 permits and 223 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 227 permits and the total approved acres would be 79.4 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 and Special Permit for Georgi Stoyanov, based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1A and incorporated herein by reference; and

Adopted after review and consideration of all the evidence on December 15, 2022.

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