

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

Resolution Number 24-

Record Number PLN-11099-CUP

Assessor's Parcel Numbers: 317-033-008-000

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

WHEREAS, Macras Land Co., LLC, submitted an application and evidence in support of approving a Conditional Use Permit for the continued operation of an existing 19,595 square feet (sf) of outdoor cultivation, and appurtenant nursery, drying & processing 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 (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 September 19, 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 19,595 square feet (sf) of pre-existing outdoor commercial cannabis cultivation. outdoor, and 1,142 sf of ancillary nursery area. Processing, including drying and trimming occurs in an existing building on-site. Water used for irrigation is sourced from two permitted wells. The applicant estimates 577,500 gallons of water used for irrigation per year. Off-grid power is supplied by one generator and proposed solar arrays. The project is conditioned to transition to 100 percent on-site renewable energy by January 1, 2026.

EVIDENCE: a) Project File: PLN-12468-CUP

2. FINDING: **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Planning Commission 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 to that document.

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) Water used for irrigation is sourced from two permitted groundwater wells.
- d) The site is currently enrolled in the State Water Resources Control Board's (SWRCB) General Order (No. WQ 2019-0001-DWQ) for Waste Discharge Requirements and Water Quality as a Tier II Moderate Risk site under WDID 1_12CC402985 and 1B161503CHUM and states the requirement for a Site Management Plan (SMP). The applicant has obtained an SMP prepared by Mother Earth Engineering, dated February 13, 2019. The SMP states that there are a total of two (2) stream crossings on-site which require upgrades or instream work. The applicant is conditioned to adhere to the corrective actions listed in Table 13 of the SMP.
- e) The applicant has obtained a Lake and Streambed Alteration Agreement (LSAA) with CDFW for the in-stream work needed to upgrade stream crossings on-site (LSAA No. 1600-2019-0662-R1)
- f) The project is located approximately 0.43 miles to the nearest known Northern Spotted Owl (NSO) activity center. The applicant obtained a Riparian and Stream Assessment prepared by Timberland Resource Consultants, dated June 26, 2017. the assessment was conducted on April 7, 2017, and habitat for several special status species were present and the species were

assumed to occur within the study area including Northern Spotted Owl (*Strix occidentalis caurina*), Coho Salmon (*Oncorhynchus kisutch*), Steelhead Trout (*Oncorhynchus mykiss*), Chinook Salmon (*Oncorhynchus tshawytscha*), Southern Torrent Salamander (*Rhyacotriton variegatus*), northern red-legged frog (*Rana aurora*), foothill yellow-legged frog (*Rana boylei*), and tailed frog (*Ascaphus truei*). The assessment states that indirect impacts to riparian and aquatic resources are primarily related to the potential for sediment delivery and this can be addressed through the Site Management Plan and improvements to the road crossings.

- g) A Less Than Three Acre Conversion (LTTAC) was accepted by Cal-Fire on June 9, 2014 for a total of 2.7 acres of timber harvesting occurred on the site. As there was less than 3 acres of timber conversion and this occurred prior to the environmental baseline of the CMMLUO, no restocking is required.
- h) The project is located within the Bear River Band Rancheria Aboriginal Ancestral Territory. The project was referred to the Bear River Band of Rohnerville Rancheria, and the Northwest Information Center (NWIC) August 28, 2017. NWIC had no record of any previous cultural resources for the project area, NWIC recommended consultation with the local tribal representatives. A response was received from the Bear River Band tribe on October 3, 2017, stating that the project did not appear to represent a source of significant impacts on cultural resources and requested the applicant adhere to Inadvertent Discover Protocols, and shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist and the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and the lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.
- i) The project is located in the Pilot Ridge area, on the north side of Stapp Road, approximately 5 miles from the intersection of Showers Pass Road and Stapp Road (APN: 317-033-008-000), in eastern Humboldt County. A Road Evaluation report was prepared for the project in September 2020, which

recommended 1) clearing of brush on both sides of the roadway to maintain maximum intervisibility on the roadway; 2) installation of a stream crossing and 3) installation of the turnouts on both sides of the stream crossing. With these recommendations, the Road Evaluation report concludes that Stapp Road will be able to safely and functionally support the intended purposes of the proposed project.

- j) The existing condition includes vehicle crossing through a fish-bearing stream which provides direct adverse impacts to aquatic species. The project is conditioned to require this condition to be improved through a bridge to allow for a permanent crossing of the creek to avoid these impacts.

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 Timber Production Zone (TPZ) and Timber (T) 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 Timberland Production Zone (TPZ) 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 TPZ.

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 sq. ft. of existing mixed-light cannabis on a parcel zoned TPZ or AE 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 19,595 sq. ft. of outdoor cultivation on a 44-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 TPZ (HCC 314-55.4.8.2.2).
 - b) The subject parcel has been determined to be one legal parcel as a remainder of Parcel Map recorded in Book 8 of Parcel Maps page 115.
 - c) The project sources water from two (2) permitted groundwater wells.
 - d) A Road Evaluation report was prepared for the project in September 2020, which recommended 1) clearing of brush on both sides of the roadway to maintain maximum intervisibility on the roadway; 2) installation of a stream crossing and 3) installation of turnouts on both sides of the stream crossing. With these recommendations, the Road Evaluation report concludes that Stapp Road will be able to safely and functionally support the intended purposes of the proposed project.
 - e) A Less Than Three Acre Conversion (LTTAC) was accepted June 9, 2014 for a total of 2.7 acres of timber harvesting occurred on the site. As there was less than 3 acres of timber conversion, no restocking is required. No timber removal is proposed for the project.
 - 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, Public Park or Tribal Cultural Resource.

6. FINDING: The cultivation of 19,595 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 in a rural part of the County where the typical parcel size is over 40 acres or more 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.
 - b) The project sources water from two (2) existing permitted groundwater wells. Currently, water is stored within water storage bladders that will be replaced with 50,000 gallons in water storage tanks. There is also one (1) 2,500-gallon hard water tank on-site designated for fire suppression only. The applicant must add water storage of no less than 200,000, per CDFW's requested condition.
 - c) The parcel is located in an area known to have a Very High Fire Hazard Severity, and is within the State Responsibility jurisdiction for local fire response. The project was referred to CalFire and the agency responded August 29, 2017. CalFire recommended signing and building numbers as well as fuel modification standards which are included as conditions.
 - d) A Road Evaluation report was prepared for the project in September 2020, which recommended 1) clearing of brush on both sides of the roadway to maintain maximum intervisibility on the roadway; 2) installation of a stream crossing and 3) installation of the turnouts on both sides of the stream crossing. With these recommendations, the Road Evaluation report concludes that Stapp Road will be able to safely and functionally support the intended purposes of the proposed project. The property does include taking access by driving though a fish-bearing stream and continued use this type of crossing presents an on-going threat to water quality and to fish and amphibians. Recommended conditions of approval include

the requirement to form a Road Maintenance Association and a requirement to improve at least one of the crossings with a permanent bridge, within two years of the effective date of project approval. Included in this recommended condition is the requirement that continued access to the operation be via the improved crossing once such a crossing is in place.

- 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 96 cultivation permits and the total approved acres would be 27.47 acres of cultivation.

- 9. FINDING:** The use of the wells for irrigation and domestic use purposes will not have any adverse impacts on any public trust resources.

EVIDENCE: a) The project uses two wells for irrigation purposes. Both wells are located within a quarter mile of Showers Creek, which is a Class 1 perennial, fish bearing stream which flows into the Mad River, and within a third of a mile of the Mad River. The Mad River contains important public trust resources such as fisheries, recreation such as boating and swimming, and historically may

have provided opportunities for waterborne commerce. The primary well is located approximately 820 feet from Showers Creek, and approximately 1,630 feet from the Mad River. The elevation of Showers Creek at its closest point is roughly 2,320 feet above sea level, which is 20 feet below the bottom of the well and roughly 100 feet below the elevation of the screening interval. The elevation of the Mad River at its closest point to the well is 1,920 feet above sea level, which is 320 feet below the bottom of the well and roughly 400 feet below the screened interval of the well. The geologic layers of the water bearing unit (shale, chert, sandstone and quartz) are more indicative of a bedrock aquifer than an alluvial aquifer and the fact that the well is drawing from above the creek and the river demonstrates that it is not directly connected to the underflow of either watercourse.

The secondary well is screened between 70 and 230 feet below the surface in a mix of shale, sandstone and basalt. The closest waterbody is the Class III unnamed watercourse referenced above which is approximately 400 feet away to the northwest and is 119 feet higher than the depth of the well. This well is approximately 1,170 feet from Showers Creek and approximately 1,480 feet from the Mad River. Showers Creek at its closest is at an elevation of 2,160 feet, which is 165 feet below the screening interval of the well. The Mad River is at an elevation of 1,920 at its closest point, which is 405 feet below the screening interval. The geologic layers of the water bearing unit (shale, sandstone and basalt) are more indicative of a bedrock aquifer than an alluvial aquifer and the fact that the well is drawing from above the creek and the river demonstrates that it is not directly connected to the underflow of either watercourse. Additionally the use of the wells for approximately 577,500 gallons of water per year is unlikely to significantly impact groundwater resources because the approximately 44-acre property provides significantly more groundwater recharge per year than the amount of water used for irrigation purposes.

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 Macras Land Co, Inc., 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 **September 19, 2024.**

The motion was made by COMMISSIONER _____ and second by COMMISSIONER _____ and the following vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

DECISION:

I, John H. 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 H. Ford, Director
Planning and Building Department