

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

Resolution Number 23-

Record Number: PLN-12014-SP

Assessor's Parcel Number: 208-341-015

Resolution by the Zoning Administrator of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the MR Hilltop Buds Special Permits request.

WHEREAS, MR Hilltop Buds submitted an application and evidence in support of approving a Special Permit for an existing 9,984 square foot (SF) cannabis cultivation, of which 8,584 SF is outdoor (light deprivation and full-sun) and 1,400 SF is mixed light, which is also utilized for ancillary propagation. Irrigation water is currently sourced from a permitted groundwater well; however, the applicant proposes to switch to rainwater catchment, unless the well is determined to be hydrologically disconnected from surface waters. There will be a total of 90,500 gallons of onsite water storage in a series of hard-sided tanks. Estimated annual water usage is 88,400 gallons. All processing currently occurs offsite at a licensed processing or manufacturing facility, although future onsite processing is anticipated. A maximum of three (3) people will be on-site during peak operations. Power is provided by two (2) generators; however, the applicant has long-term plans to install solar and a battery bank, with the generators to be utilized for back-up only. A Special Permit is also requested to reduce the 600-foot setback requirement to public lands; 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 Zoning Administrator held a duly-noticed public hearing on March 2, 2023, and reviewed, considered, and discussed the application for Special Permits, 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:

- 1. FINDING:** **Project Description:** The application is a Special Permit for 9,984 square feet (SF) of existing cannabis cultivation, of which 8,584 SF is outdoor (light deprivation and full-sun) and 1,400 SF is mixed light, which is also utilized for ancillary propagation. Irrigation water is currently sourced from a permitted groundwater well; however, the applicant proposes to switch to rainwater catchment, unless the well is determined to be hydrologically disconnected from surface waters. There will be a total of 90,500 gallons of onsite water storage in a series of hard-sided tanks. Estimated annual water usage is 88,400 gallons. All processing currently occurs offsite at a licensed

processing or manufacturing facility, although future onsite processing is anticipated. A maximum of three (3) people will be on-site during peak operations. Power is provided by two (2) generators; however, the applicant has long-term plans to install solar and a battery bank, with the generators to be utilized for back-up only. A Special Permit is also requested to reduce the 600-foot setback requirement to public lands

EVIDENCE: a) Project File: PLN-12014-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 this 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) A Water Resource Protection Plan was prepared for the project (not dated) to show compliance with the North Coast Regional Water Quality Control Board's 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 submit copies of all documents filed with the State Water Resources Control Board, including, but not limited to, a Site Management Plan to show compliance with the State Water Board Cannabis General Order for Waste Discharge, and maintain enrollment in the Cannabis General Order for the life of the project.
- d) California Department of Fish and Wildlife Resource Maps indicate there are no mapped sensitive species onsite; however, the subject parcel is located in close proximity to several Northern Spotted Owl (NSO) activity centers. A review of the California Natural Diversity Database (CNDDB) Spotted Owl Observation Database in January 2023 showed that Northern Spotted Owl habitat exists in the vicinity and the nearest Northern Spotted Owl (NSO) positive NSO sighting and activity center are located approximately 0.55 and 1.15 miles from the nearest cultivation area, respectively. Supplemental lighting is utilized for mixed-light cultivation and ancillary propagation and two (2) generators are currently utilized for the operation, although long-term plans include installation of solar and a battery bank, with the generators to be utilized for back-up only. Conditions of approval will require light attenuation measures and for 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. In addition, the applicant is required to submit an energy use plan that

describes how the operation will transition to use of 80% renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026.

- e) Based on review of historic aerial imagery dating back to 2004, there is a large open area located within the northern half of the site. It does not appear that timber conversion has occurred onsite in order to accommodate the existing project, and no restocking is required. No timber conversion is proposed or authorized by this permit.
- 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. The inadvertent discoveries protocol has been included as an ongoing condition of approval, as requested by the Bear River Band of the Rohnerville Rancheria in August 2017.
- g) A Road Evaluation Report for a 1-mile segment of Cobb Road from Highway 36 was prepared by the applicant in September 2017, which indicates that the roadway is developed to the equivalent of a Category 4 road standard and is suitable for safe access to and from the site. Additionally, a Cobb Road Road Assessment was prepared for the Cobb Road Association in April 2020 by Timberland Resource Consultants, which assessed approximately 1.1 miles of Cobb Road and 500 feet of Rattlesnake Bridge Road that crosses or border 13 separate, privately-owned parcels (including the subject site) that are members of the Cobb Road Association. Under the Road Assessment, most of the road surface was found to be approximately 12 to 14 feet wide with numerous wider turnouts to allow for parking or passing of oncoming vehicles. While the road receives moderate traffic use, it appears to be maintained by landowners through surface rocking and grading. The majority of the road is insloped to crowned; however, the road was found to lack adequate cross-draining of the inside ditch to allow excessive concentration of runoff and hydrologic connectivity at watercourse crossings. The project is conditioned to require the applicant to remain a member of the Cobb Road Association, and pay fair-share costs associated with implementation of the corrective actions identified in Timberland Resource Consultants' Road Assessment and maintenance of Cobb Road.

FINDINGS FOR SPECIAL PERMITS

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.
- b) Parcels to the north, west, south, and east of the site, although not

immediately adjacent, are owned by the Six Rivers National Forest (SRNF), operated by the Lower Trinity Ranger District. At the nearest location, existing cultivation is located approximately 500 feet southeast from the public land; however, no developed or designated recreational facilities are within 600 feet of the existing cultivation, although a SRNF-maintained gravel road is in close proximity to the site. The public lands are subject to the Six Rivers National Forest Plan (SRNFP) adopted in 1995. The project is consistent with the SRNFP because the cultivation activities will minimize impacts to biological resources and wildlife through measures to eliminate potential light and noise impacts. The project will also protect fisheries and aquatic habitat on forest lands by maintaining buffers from streams and by placing controls on water use, and on the storage and use of pesticides, rodenticides and fertilizers, and will minimize risk from wildfire by adhering to the County's Fire Safe Regulations and the requiring adequate road access. The SRNFP's provisions for heritage resource protection will be met through the project consultation with Tribal Historic Preservation Officers and avoidance of sensitive tribal cultural resources. Finally, the project is consistent with recreational use on public lands by maintaining a minimum 600 buffer separation from developed campgrounds and/or trails.

4. FINDING

The proposed development is consistent with the purposes of the existing Unclassified (U) zoning district in which the site is located.

EVIDENCE

- a) The Unclassified or U Zone is intended to be applied to areas of the County in which general agriculture residential uses are the desirable predominant uses.
- b) All general agricultural uses are principally permitted in the U zone.
- c) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 10,000 square feet of existing outdoor cannabis and up to 10,000 square feet of existing mixed-light cannabis on a parcel over 1 acre subject to approval of a Special Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for 9,984 square feet of cultivation (8,584 SF outdoor and 1,400 SF mixed light) on a 14.47-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 Unclassified (U) (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 by an approved and recorded Parcel Map Subdivision (Blue Rock Ranches, Parcel 20 of Parcel Map 289, Parcel Map Book 19, Pages 27 through 33).

- c) Water for irrigation is currently provided by a permitted groundwater well (16/17-0542). Per the Site Plan, the well is located within the southern portion of the site. There are no streams located onsite or within close proximity of the subject parcel. As shown on the County Web GIS, the nearest Streamside Management Area (Van Duzen River) is located approximately 855 feet south of the site. According to the Well Completion Report, the well is 120 feet deep and drilled through clay, cobbles, and sandstone. A blank or screen is installed for entire depth of the well. As the well has not yet been assessed for hydrologic connectivity to surface water, conditions of approval require the applicant to discontinue use of the well for cannabis irrigation prior to the 2025 cultivation season.

The project will be implemented in a phased approach (3 phases total) to be supported by the available onsite water storage. Under the project, the applicant proposes to discontinue use of the well and utilize rainwater catchment to meet annual water demand. An assessment of the rainwater catchment potential of the proposed rainwater catchment was completed to determine if adequate water supply would be available to serve the project. The average rainfall for the project area is 55.4 inches, based on averaging rainfall values from 2011 through 2020 as recorded by PRISM Climate Group. Impermeable surfaces such as roofs, driveways, etc. in general allow for about 620 gallons of rainwater catchment per 1,000 SF for every inch of rainfall or 0.62 gallons per 1 SF. As indicated on the project's Rainwater Catchment Map (see Attachment 1E), rainwater will be captured from the roofs of two sheds and two structures built over water tanks.

Based on the impermeable rainwater catchment area of 460 SF, and an average rainfall amount of 55.4 inches, the potential rainwater capture amount totals 15,801 gallons per year, on average. Use of the groundwater well is not proposed to continue, at least until assessed for hydrologic connectivity. As such, when compared to the estimated annual water usage amount at full project build-out (88,400 gallons), Planning staff believes there will not be sufficient water available from the rainwater catchment system, as currently proposed, to serve the irrigation needs of the project (deficit of 72,599 gallons). In order to capture sufficient water to meet the needs of the project, the capture area would need to be expanded by approximately 2,114 SF, at a minimum, which is included as a condition of approval and shall be added prior to the 2025 cultivation season. Conditions of approval also require the applicant to monitor water use from the well (until use ceases prior to the 2025 cultivation season), the rainwater catchment system, and storage tanks annually to demonstrate there is sufficient water available to meet operational needs.

- d) A Road Evaluation Report for a 1-mile segment of Cobb Road from Highway 36 was prepared by the applicant in September 2017, which indicates that the roadway is developed to the equivalent of a Category 4 road standard. Additionally, a Cobb Road Road Assessment was prepared for the Cobb Road Association in April 2020 by Timberland Resource Consultants, which assessed approximately 1.1 miles of Cobb Road and 500 feet of Rattlesnake Bridge Road that crosses or border 13 separate, privately-

owned parcels (including the subject site) that are members of the Cobb Road Association. Under the Road Assessment, most of the road surface was found to be approximately 12 to 14 feet wide with numerous wider turnouts to allow for parking or passing of oncoming vehicles. While the road receives moderate traffic use, it appears to be maintained by landowners through surface rocking and grading. The majority of the road is insloped to crowned; however, the road was found to lack adequate cross-draining of the inside ditch to allow excessive concentration of runoff and hydrologic connectivity at watercourse crossings. The project is conditioned to require the applicant to remain a member of the Cobb Road Association, and pay fair-share costs associated with implementation of the corrective actions identified in Timberland Resource Consultants' Road Assessment and maintenance of Cobb Road. With completion of the suggested improvements, all road segments evaluated will be functionally appropriate for the expected traffic.

- e) Natural slopes within the vicinity of where cultivation occurs is mapped between 15% up to more than 50%, as per the County GIS portal.
- f) Based on review of historic aerial imagery dating back to 2004, there is a substantial amount of open area within the northern portion of the site, where the existing cultivation is located. It does not appear that timber conversion has occurred onsite in order to accommodate the existing project, and no restocking is required. No timber conversion is proposed or authorized by this permit.
- g) The location of the cultivation complies with most setbacks required in Section 314-55.4.11.d. It is more than 30 feet from any property line, more than 300 feet from any off-site residence, more than 600 feet from any school, church, or Tribal Cultural Resource. However, a Special Permit is requested in order to reduce the 600-foot setback required from public lands. Existing cultivation is located approximately 500 feet southeast from public land owned by the Six Rivers National Forest (SRNF), operated by the Lower Trinity Ranger District. However, no developed or designated recreational facilities are within 600 feet of the existing cultivation, although a SRNF-maintained gravel road is in close proximity to the site.

6. FINDING

The cultivation of 9,984 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, with implementation of the roadway improvements included in the Cobb Road Road Assessment, prepared for the Cobb Road Association in April 2020 by Timberland Resource Consultants, which have been included in the conditions of approval. .

- b) The site is in a rural part of the County where the typical parcel size is over 5 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) The location of the proposed cannabis cultivation is more than 300 feet from the nearest off-site residence.
- d) Irrigation water will come from a groundwater well that has been permitted by the Environmental Health Department.
- e) 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

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 and does not currently contain any residential units. 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 Van Duzen Planning Watershed, which under Resolution 18-43 is limited to 425 permits and 146 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 122 permits and the total approved acres would be 40.96 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 Permits for MR Hilltop Buds, 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 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.

John H. Ford Zoning Administrator,
Planning and Building Department