

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

Resolution Number 23-

Record Number: PLN-12125-CUP

Assessor's Parcel Number: 216-136-004, 216-135-008

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

WHEREAS, Humboldt Kingz, LLC, submitted an application and evidence in support of approving a Conditional Use Permit for the continued operation of an existing 37,250 square feet of outdoor cannabis cultivation operation with appurtenant propagation and processing activities. The project also includes a Special Permit for proposed restoration work within the Streamside Management Area (SMA);

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 April 20, 2023, 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 to allow 37,250 square foot outdoor cannabis cultivation operation with appurtenant propagation and drying activities. Water for irrigation will be provided by a 6-million-gallon on-stream reservoir after approval by the State Water Board and CDFW, or rainwater catchment utilizing the rooftops of the cultivation structures and 400,000 gallons of rainwater catchment tanks (15,000 gallons existing and 385,000 gallons proposed). If approved the pond will also provide water for a proposed cannabis project on a separate legal parcel (PLN-12124-CUP). The applicant anticipates 400,000 gallons of water will be required annually for irrigation. Water storage onsite totals 6,015,000 gallons whereas 6 million gallons is from a 6-million-gallon onstream pond, and 15,000 gallons is sourced from hard tanks. Proposed water storage is 400,000 gallons in hard tanks if the on-stream pond cannot be permitted. Processing such as drying and curing are proposed onsite within an existing 1,440-square-foot dry shed. Further processing such as trimming is proposed offsite at a licensed processing facility. The applicant anticipates two (2) full-time employees, and six (6) seasonal employees will be required for a total of eight (8) employees at peak operations annually. Power for the project is currently provided by solar power and a generator. The applicant has been approved for DCC water and energy grants and is proposing to install a 15kw solar

array to reduce generator and fuel use by 88%. The applicant is proposing to transition generator use to PG&E power if available within five years.

EVIDENCE: Project File: PLN-12125-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 was prepared by the applicant to show compliance with the North Coast Regional Water Quality Control Board Order No. 2015-0023. The applicant has supplied a Notice of Applicability from the State Water Resources Control Board demonstrating enrollment. Submittal of the final Site Management Plan (SMP) and continued enrollment have been included as recommended conditions of approval.
 - d) A Lake and Streambed Alteration Agreement was submitted for the ongoing use and maintenance of the onstream pond, stream crossings, and water resources on additional parcels under the same ownership.
 - e) Botanical Survey Report prepared by Hohman & Associates dated October 2019. The survey concluded no protected rare or endangered plants were identified within the proposed disturbance areas or elsewhere on the Journey Aquarian property.
 - f) A Wetland Restoration Plan prepared by James Regan dated August 2019. The restoration plan provides proposed restoration activities that will provide erosion control, bank stability, habitat structure and diversity.
 - g) Engineering Geologic Evaluation and Soils Reporting for Existing and Proposed Improvements prepared by SHN Consulting Engineers and Geologists dated June 11, 2019. The evaluation and reporting concluded the existing or proposed pond improvements are unlikely to have deleterious impact on the surrounding geologic environment.

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 Agriculture Grazing (AG)

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 Agriculture Exclusive (AE) zone and Timberland Production Zone (TPZ) in which the site is located.

- EVIDENCE**
- a) The Agriculture Exclusive (AE) zone and Timberland Production Zone (TPZ) is intended to be applied to areas of the County in which general agriculture is an allowable use for AE and TPZ zones.
 - b) All general agricultural uses are principally permitted in the AE and TPZ zone.
 - c) Humboldt County Code section 314-55.4.8.2.2 allows up to 43,560 square feet of existing cannabis cultivation on parcels zoned AE and TPZ over five acres in size 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 37,250 square feet of existing cannabis cultivation on an 88-acre parcel zoned AE and TPZ is consistent with this and with the cultivation area verification prepared by the County.
 - d) The applicant is requesting a Special Permit for the proposed work within the Streamside Management Area per Section 314-61.1.5 HCC.

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 AE and TPZ (HCC 314-55.4.8.2.2).
 - b) APNs 216-135-008 and 216-136-004 comprise one legal parcel as demonstrated by Certificate of Subdivision Compliance 2019-008914, recorded May 23, 2019.
 - c) The applicant has proposed to utilize the existing pond as an onstream reservoir. The applicant shall bypass all inflow to the pond during the dry season as required by State Water Board requirements. If the pond cannot be approved, the applicant has proposed to install additional hard sided tanks to store rainwater for cannabis activities.
 - d) 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, more than 300 feet from any off-site residence, more than 600 feet from any school, church, or Tribal Cultural Resource.

6. FINDING The cultivation of 37,250 square foot 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 road that has been evaluated by North Point Consulting, who prepared a Road Evaluation Report which indicates the road can safely accommodate the amount of traffic generated by the proposed cannabis cultivation.
- b) The site is in a rural part of the County where the typical parcel size is over 80 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 an onstream reservoir. The applicant will bypass all inflow to the pond annually from April 1 to October 31. If the use of the pond is not approved by CDFW and the State Water Board the applicant has proposed additional water storage to meet projected demands.

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. 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

~~FINDING~~ of the 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

This project site is located in the Middle Main Eel planning watershed which is limited to 360 permits and 125 acres of cultivation. If approved, the Middle Main Eel planning watershed would have 102 approved permits for a total of 41.13 acres.

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 approve the Conditional Use Permit (PLN-12125-CUP) for Humboldt Kingz, LLC subject to the conditions of approval attached hereto as Attachment 1A and incorporated herein by reference; and

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