

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

Resolution Number 24-

Record Number: PLN-12419-SP

Assessor's Parcel Number: 221-061-001

Resolution by the Zoning Administrator of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Cannabanana, LLC Special Permit requests.

WHEREAS, Cannabanana, LLC submitted an application and evidence in support of approving a Special Permit for the continued operation of 6,250 square feet (SF) of existing outdoor cannabis utilizing light deprivation techniques and 200 SF of ancillary nursery space. The applicant is also seeking a Special Permit for development in a Streamside Management Area (SMA), and a Special Permit to reduce the 600-foot setback to public lands. Irrigation water is sourced from rain catchment collected and stored in two ponds. Water storage in the ponds is 106,500-gal., hard tank storage is 115,500-gal., total irrigation storage is 222,000-gal. Estimated annual water usage is 136,000-gal. Processing such as drying and curing occur onsite in an existing 1,500 SF shop building, with all further processing including trimming taking place off-site at a licensed third-party processing facility. No employees are proposed, only onsite residents will operate the project. Power is provided by an existing solar system with generators as a supplemental power source. The applicant has proposed to transition to full solar power within two years of project approval; 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 7, 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 Zoning Administrator makes all the following findings:

- 1. FINDING** **Project Description:** Special Permit for the continued operation of 6,250 square feet (SF) of existing outdoor cannabis utilizing light deprivation techniques and 200 SF of ancillary nursery space. The applicant is also seeking a Special Permit for development in a

Streamside Management Area (SMA), and a Special Permit to reduce the 600-foot setback to public lands. Irrigation water is sourced from rain catchment collected and stored in two ponds. Water storage in the ponds is 106,500-gal., hard tank storage is 115,500-gal., total irrigation storage is 222,000-gal. Estimated annual water usage is 136,000-gal. Processing such as drying and curing occur onsite in an existing 1,500 SF shop building, with all further processing including trimming taking place off-site at a licensed third-party processing facility. No employees are proposed, only onsite residents will operate the project. Power is provided by an existing solar system with generators as a supplemental power source. The applicant has proposed to transition to full solar power within two years of project approval.

EVIDENCE a) Project File: PLN-12419-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 project specific Addendum to and the MND.

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) The applicant has demonstrated enrollment under the State Water Resources Control Board General Order (WDID No. 1_12CC417535). Conditions of approval require the applicant to comply with the State Water Resources Control Board, which includes development and implementation of a Site Management Plan and maintain enrollment in the Cannabis General Order for the life of the project.

d) Per review of CDFW's California Natural Diversity Database (CNDDDB) no rare or endangered plant or animal species are mapped on the subject parcel. The project was referred to BLM on October 28, 2022 and received no comments. The nearest NSO activity center located approximately 0.75-miles away. Power at the site is provided by an existing solar system with a supplemental generator, and is further conditioned to restrict generator noise to 50 decibels (dB) at

100 feet or nearest forested edge, whichever is closer. Generator use is specifically not allowed until staff is able to verify it operates at or below the 50 dB threshold. Additionally, project conditions require the applicant to transition from supplemental generator use to full solar power to support the project within two years of project approval, after which the generator may be kept on site for emergency use only. Lighting in the ancillary nursery is also disallowed until staff verifies the light can be shielded between dusk and dawn daily, when in use. Conditions of approval require the applicant to implement light and noise attenuation measures, 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 impact NSO or other sensitive species.

- e) Review of aerial imagery dating back to 2004 indicates the site was cleared of 0.19 acres of timber and vegetation and graded to create a pond between 2014 and 2015, and an additional 0.25-acre area was cleared of trees in 2017. A Registered Professional Forester (RPF) assessed the potential conversion and provided a report and restocking plan (Timber Conversion Evaluation dated Oct. 22, 2018 from Timberland Resource Consultants and Restocking Plan from Timberland Resource Consultants dated Nov. 29, 2018). The Conversion Evaluation indicated the 0.19-acre area constituted a conversion, and recommended replanting of timber on the pond's cut-slope, embankment, and all associated disturbed/cleared areas. The Conversion Evaluation also indicated the 0.25-acre clearing likely did not constitute a timber conversion, as the area cleared was comprised of black oak, which are not a commercial tree species as defined by 14CCR 895.1 for the Coast Forest District. The RPF notes the removal of black oak does not constitute a conversion in their professional opinion, however a review of onsite conditions and aerial imagery indicate the area may have had some scattered conifer encroachment within the oak woodlands and cannot therefore determine definitively that no conversion occurred. If some conversion is assumed, the RPF verified the conversion would have been in compliance with the Forest Practice Rules.

The condition requiring replanting of the pond embankment, cut-slope, and all associated disturbed areas as recommended by the RPF will ensure no net timber conversion has occurred after January 1, 2016 in conformance with requirements of the CMMLUO (Condition [CX]). Conditions require staff verification the replanting has occurred and within two years of project approval, and a completion

report is required from an RPF demonstrating the success of the replanting. No additional tree removal is proposed or authorized by this permit.

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- f) The project was referred to the Northwest Information Center (NWIC) at Sonoma State, the Bear River Band Tribal Historic Preservation Officer (THPO), and the Intertribal Sinkyone Wilderness Council in January 2020. Both NWIC and Bear River Band THPO indicated an Archaeological Survey of the site was appropriate. A subsequent Cultural Resources Investigation was performed by Archaeological Research and Supply Company in March 2020 (on file and confidential), in which no cultural resources were identified. The project will adhere to the standard inadvertent discovery protocol, as recommended in the Report, which has been incorporated into the conditions of approval.
- g) The project site is accessed via a driveway intersecting Upper Samuels Ranch Loop Road via Thomas Road via Salmon Creek Road, the latter two of which are County maintained and approved for commercial cannabis operators. The access road has been evaluated by an engineer in May of 2023 for a separate cannabis permit. As previously noted, there will be a maximum of two people onsite during peak operations. As this is an existing operation, a significant increase in traffic is not expected under the project. The privately maintained portion of the access route has been documented by the applicant and their agent to be able to accommodate the traffic stemming from approval of this application.

The project has been conditioned to enroll in a Road Maintenance Association to share costs associated with the maintenance and improvements of the access roads. The permit holder has been conditioned to complete the engineer recommendations contained in the Road Evaluation prepared Omsberg and Preston dated May 26, 2023.

FINDINGS FOR CONDITONAL 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 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 the 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 Unclassified (U) zone in which the site is located.

- EVIDENCE**
- a) General agricultural uses are principally permitted in the U zone.
 - b) 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 U zoned parcel over 1 acre in size subject to approval of a Special Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for 6,250 square feet of 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 U (HCC 314-55.4.8.2.2).
 - b) The parcel was created by deed in May 1971 and is 40 acres in size. The subdivision ordinance in effect at the time, County ordinance #490, exempted creation of parcels of 20 acres or more from county review. Therefore, the subject property is a legally created parcel.
 - c) Irrigation water is sourced from rain catchment collected and stored in two ponds. Water storage in the ponds is 106,500-gal., hard tank storage is 115,500-gal., total irrigation storage is 222,000-gal. Estimated annual water usage is 136,000-gal (21.65 gal/sf).

Water use records reported to the State Water Resources Control Board indicate 136,000 gallons were utilized for cannabis irrigation in 2021 and 2022, and the water records supplied by the applicant indicate 38,410 gallons of water were utilized for cannabis irrigation in 2023.

- d) The project site is accessed via a driveway intersecting Upper Samuels Ranch Loop Road via Thomas Road via Salmon Creek Road, the latter two of which are County maintained and approved for commercial cannabis operators. The access road has been evaluated by an engineer in May of 2023 for a separate cannabis permit. As previously noted, there will be a maximum of two people onsite during peak operations. As this is an existing operation, a significant increase in traffic is not expected under the project. The privately maintained portion of the access route has been documented

by the applicant and their agent to be able to accommodate the traffic stemming from approval of this application.

The project has been conditioned to enroll in a Road Maintenance Association to share costs associated with the maintenance and improvements of the access roads. The permit holder has been conditioned to complete the engineer recommendations contained in the Road Evaluation prepared Omsberg and Preston dated May 26, 2023

- e) Cannabis cultivation occurs in previously graded flats that are less than 15% in slope.
- f) Review of aerial imagery dating back to 2004 indicates the site was cleared of 0.19 acres of timber and vegetation and graded to create a pond between 2014 and 2015, and an additional 0.25-acre area was cleared of trees in 2017. A Registered Professional Forester (RPF) assessed the potential conversion and provided a report and restocking plan (Timber Conversion Evaluation dated Oct. 22, 2018 from Timberland Resource Consultants and Restocking Plan from Timberland Resource Consultants dated Nov. 29, 2018). The Conversion Evaluation indicated the 0.19-acre area constituted a conversion, and recommended replanting of timber on the pond's cut-slope, embankment, and all associated disturbed/cleared areas. The Conversion Evaluation also indicated the 0.25-acre clearing likely did not constitute a timber conversion, as the area cleared was comprised of black oak, which are not a commercial tree species as defined by 14CCR 895.1 for the Coast Forest District. The RPF notes the removal of black oak does not constitute a conversion in their professional opinion, however that a review by the RPF of onsite conditions and aerial imagery indicate the area may have had some scattered conifer encroachment within the oak woodlands and cannot therefore determine definitively that no conversion occurred. If some conversion is assumed, the RPF verified the conversion would have been in compliance with the Forest Practice Rules.

The condition requiring replanting of the pond embankment, cut-slope, and all associated disturbed areas as recommended by the RPF will ensure no net timber conversion has occurred after January 1, 2016 in conformance with requirements of the CMMLUO. Conditions require staff verification the replanting has occurred and within two years of project approval, and a completion report is required from an RPF demonstrating the success of the replanting. No additional tree removal is proposed or authorized by this permit.

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- g) 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, more than 300 feet from any off-site residence, more than 600 feet from any school, church, public park or Tribal Cultural Resource. The applicant is requesting a Special Permit for a setback reduction to public lands to allow for the cultivation to be as close as 36 feet from the adjacent public lands owned by the Bureau of Land Management (BLM). There are no developed recreational facilities within 600 feet of the cultivation area and no mapped sensitive wildlife within 600 feet, and so the continued operation of an outdoor cultivation on solar power will have no adverse impacts on the BLM property.

6. FINDING

The cultivation of 6,250 SF 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 project site is accessed via a driveway intersecting Upper Samuels Ranch Loop Road via Thomas Road via Salmon Creek Road, the latter two of which are County maintained and approved for commercial cannabis operators. The access road has been evaluated by an engineer in May of 2023 for a separate cannabis permit. As previously noted, there will be a maximum of two people onsite during peak operations. As this is an existing operation, a significant increase in traffic is not expected under the project. The privately maintained portion of the access route has been documented by the applicant and their agent to be able to accommodate the traffic stemming from approval of this application.
- 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) The location of the proposed cannabis cultivation is more than 300 feet from the nearest off-site residence.
- d) Irrigation water is sourced from rain catchment collected and stored in two ponds. Water storage in the ponds is 106,500-gal., hard tank storage is 115,500-gal., total irrigation storage is 222,000-gal. Estimated annual water usage is 136,000-gal (21.65 gal/sf).

Water use records reported to the State Water Resources Control Board indicate 136,000 gallons were utilized for cannabis irrigation in 2021 and 2022, and the water records supplied by the applicant indicate 38,410 gallons of water were utilized for cannabis irrigation in 2023.

- 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.
- f) Electricity is provided by an existing solar array and a generator for supplemental use, and the applicant has proposed to transition away from generator use within two years of project approval, after which time the generator will be utilized for emergency backup use only.

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.

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 South Fork Eel Planning Watershed, which under Resolution 18-43 is limited to 730 permits and 251 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 307 permits and the total approved acres would be 87.13 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 **Cannabanana, LLC** based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1A and incorporated herein by reference.

Adopted after review and consideration of all the evidence on **March 7, 2024**.

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 Commission at a meeting held on the date noted above.

John H. Ford, Director
Planning and Building Department