

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

Resolution Number 21-11

Record Number: PLN-12529-CUP

**Assessor Parcel Numbers: 217-201-001, 217-181-027, 217-181-028, 217-182-001,
217-024-011, 217-024-006, 217-024-010, 217-024-003, 217-025-001**

Makes the required findings for certifying compliance with the California Environmental Quality Act adopting a Mitigated Negative Declaration, adopting finding to support approval of a cannabis application and conditionally approving the Rolling Meadow Ranch, LLC, Conditional Use Permit request.

WHEREAS, Rolling Meadow Ranch, LLC, applied to cultivate 5.77 acres of Cannabis on property in excess of 600 acres under the provisions of the Commercial Medical Marijuana Land Use Ordinance; and

WHEREAS, the County Planning Division reviewed the application and evidence, has referred the application and evidence to involved reviewing agencies for site inspections, comments and recommendations; and

WHEREAS, a Mitigated Negative Declaration was prepared for the proposed Conditional Use Permits for 5.77 acres (or 251,341 square feet) of mixed light cannabis cultivation on APNs 217-201-001, 217-181-027, 217-181-028, 217-182-001, 217-024-011, 217-024-006, 217-024-010, 217-024-003, 217-025-001, pursuant to Section 15074 of the CEQA Guidelines; and

WHEREAS, a public hearing was scheduled on January 7, 2021 and held on the matter before the Humboldt County Planning Commission on January 21, 2021; and

Now, THEREFORE BE IT RESOLVED, that the Planning Commission makes all the following findings:

- 1. FINDING:** **Project Description:** Six Conditional Use Permits for 5.73 acres of mixed light cannabis cultivation located in four distinct cultivation areas and processing facilities. Operations would occur year-round. Water for irrigation is provided by three groundwater wells and rainwater catchment. Annual water use is approximately 4,628,200 gallons. There will be 320,000 gallons of hard-sided tank storage that will store rain from rooftop runoff. Processing, including drying, curing and trimming, will take place on site within 5 proposed processing structures totaling 33,750 square feet and includes associated parking facilities. The applicant must process at an off-site licensed processing facility until the Onsite Wastewater Treatment System is permitted and installed. A maximum of 30 employees are required for peak operations. Power is provided by P. G. & E.

EVIDENCE: a) Project File: PLN-12529-CUP

- 2. FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been complied with. A Mitigated Negative Declaration (MND) was prepared for the project and circulated for public review. The conclusion of the MND is that there are not any potentially significant impacts that cannot be mitigated.

EVIDENCE: a) Environmental review for the proposed project included the preparation of an Initial Study/Mitigated Negative Declaration (IS/MND) pursuant to the California Environmental Quality Act (CEQA) Statute (Public Resources Code 21000–21189) and Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000–15387).
b) The IS/MND was circulated from July 17, 2020, to August 17, 2020, at the State Clearinghouse. Due to substantial comments received from the

California Department of Fish and Wildlife, the applicant submitted additional information, including Golden Eagle survey data, road and stream crossing evaluations for the Alderpoint Road access and a supplemental botanical report. The applicant revised the project to reconfigure site access to ensure the internal access occurs on roads with ownership and/or easements allowing use for the applicant, modified the location of the parking area and security guard station and relocated the processing building near Greenhouses #1 - #3 out of the flood plain to Cultivation Area #4 and required wetland setbacks, which reduced the amount of wetland filled proposed the project.

- c) The revised Initial Study/Mitigated Negative Declaration was circulated for public review between November 30 to December 31, 2020. The Revised MND/Initial Study was mislabeled as an Initial Study during the recirculation but give that a previous draft of the Initial Study/Mitigated Negative Declaration had undergone public review it is evident that the recirculated document was a recirculation of the prior Mitigated Negative Declaration.
- d) The Initial Study/Mitigated Negative Declaration included 16 mitigation measures which have been incorporated into a Mitigation Monitoring and Reporting Plan which is being adopted as part of the project.

3. FINDING:

ENVIRONMENTAL IMPACTS FOUND NOT TO BE SIGNIFICANT- NO MITIGATION REQUIRED. The following impacts have been found to be less than significant and mitigation is not required to reduce project related impacts: Air Quality, cultural resources, energy, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, noise, population and housing, public services, recreation. transportation and traffic, tribal cultural resources, utilities, and wildfire

EVIDENCE:

- a) There is no evidence of an impact to any of the above reference potential impact areas based on the project as proposed at this proposed location.
- b) Initial Study/Mitigated Negative Declaration dated November 25, 2020 and circulated for public review December 1, 2020 to December 31, 2020
- c) Due to comments received by the California Department of Fish and Wildlife during the circulation period of the Initial Study/Mitigated Negative Declaration, Mitigation Measure BIO-16 was substituted with the following mitigation measure:
 - Construction shall occur outside of the Golden Eagle breeding season unless pre-construction Golden Eagle surveys have been conducted which demonstrate that no active nests are present within a 1-mile radius of the Project within the Rolling Meadow Ranch boundaries (an approximately 2,900-acre area). The surveys shall be completed during at least two separate non-consecutive days, with at least one survey occurring between January 15 and February 15. Survey results shall be submitted to the Humboldt County Planning Department.

This substitution mitigation measure is more effective in mitigating the potential significant impacts that were identified and does not in itself cause any potentially significant impacts on the environment.

The substituted mitigation measure does not affect the conclusions of the document and does not require recirculation pursuant to Section 15073.5 of the CEQA Guidelines.

4. FINDING:

ENVIRONMENTAL IMPACTS MITIGATED TO LESS THAN SIGNIFICANT – The Initial Study identified potentially significant impacts to Aesthetics, agricultural and forest resources, biological resources, which could result from the project as originally submitted. Mitigation Measures have been required to ensure potential impacts are limited to a less than significant level.

EVIDENCE:

- a) **Aesthetics:** The project would not substantially degrade the existing visual character or quality of public views of the site and its surroundings. Large retaining walls proposed to support facilities 1 and 2 are not typical agricultural features and therefore have potential adverse aesthetic impacts if glimpses from the river do occur. Mitigation in the form of architectural treatment for the proposed retaining walls will reduce any potential impacts to a less than significant level.
- b) **Agriculture and Forest:** The implementation of the project will result in the loss of a maximum of 24 trees out of over 186,000 but will not result in the loss of forest land or the conversion of forest land to non-forest use with mitigation incorporated. To mitigate the loss of these 24 trees, the project will replant the trees onsite from local stock with a ratio of three new trees per every one tree removed and incorporate monitoring for replanting success.
- c) **Biological Resources:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for biological resources:
 - i. Prior to construction a full early season botanical survey will be completed for the location of Facilities #6-#9. If any sensitive species are found that portion of the project will not be constructed.
 - ii. To avoid the potential for significant impacts to Pacific Gilia (*Gilia capitata* ssp. *Pacifica*) populations, improvements to- and maintenance of the road shall occur after August 15th and before October 15th in areas where Pacific gilia is impacted.
 - iii. To avoid the potential for significant impacts to Pacific Gilia (*Gilia capitata* ssp. *Pacifica*) all extraction of rock from the rock quarry (Map ID #4, Figures 27 and 30) shall occur after August 15th and before October 15th and occur no more frequently than every two (2) years (i.e. allowing two years between extraction events).
 - iv. The densest portion of Tracy's tarplant (*Hemizonia congesta* ssp. *Tracyi*) population, will be protected during construction by the placement of construction fencing at the periphery of the population, to keep equipment operators out of the area.
 - v. A total of approximately 0.97 acres (42,446 square feet) of *Danthonia californica* prairie and approximately 0.89 acres (38,925 square feet) of *Elymus glaucus* prairie will be enhanced or restored on site.
 - vi. Direct impacts to 0.255 acres of seasonal wetland and 0.277 acres of seasonal wetland within 100 feet of Facilities will be mitigated by creating a total of 0.48 acres of wetland.
 - vii. Protocol level surveys (Spot Checks) will be conducted for the fourth year (2021) for Northern Spotted Owl. As per protocol if nesting NSOs are found within 0.25 miles of a project area, no construction will take place in the 0.25-mile buffer around the nest until after August 31.
 - viii. Prior to construction during the breeding season for Coopers hawk, Sharp-shinned hawk, American peregrine falcon, and osprey pre-construction surveys will be conducted within forested habitat in the 1000-foot buffer around each project location. If a nest is found, CDFW will be contacted and the agency will determine the appropriate no work buffer to remain around the nest until it has fledged.
 - ix. If construction takes place during the denning season, then preconstruction surveys for Fisher den sites and structures will be

completed in the more densely forested areas that occur within 1000 feet of facilities #6-#9 to determine presence or absence of denning potential for this species. Should evidence of denning be found, no work will take place at the facilities #6-#9 location until after the denning season has ended.

- x. If construction takes place during the nesting season for grasshopper sparrow and Bryant's savannah sparrow then 3 consecutive preconstruction surveys for these species will take place the within the grassland portions of all project footprints as well as a 500-foot buffer around the footprint.
- xi. Preconstruction surveys of the barn for Townsend Big Eared Bat shall occur during breeding season to ensure no bats are using this structure for anything other than a temporary night roost.
- xii. If construction of the infrastructure at facilities #1, and #2, takes place during the nesting season, preconstruction surveys western pond turtle nests will be conducted. If nests are found, they will be buffered and undisturbed until turtles have hatched and left the nest.
- xiii. To mitigate for potential impacts to migratory birds and black-tailed jackrabbit three consecutive preconstruction surveys for these species will take place no more the one week prior to the start of construction at EACH location of vegetation removal or ground disturbance.
- xiv. To mitigate for potential impacts to western bumble bee. The project will first determine presence/absence. This can be achieved with three (3) nest seeking queen surveys or three (3) flight season surveys.
- xv. To ensure less than significant impacts to northern red-legged frog, foothill yellow-legged frog, and red- bellied newt work to upgrade 34 stream crossings on the project roads will be done during the summer and fall season when the streams should be dry with no frogs or newts are present. As per standard construction process, IF any streams are found to have water in them at the time of crossing reconstruction, preconstruction surveys for amphibians will be completed no more 2 days prior to construction.
- xvi. Construction shall occur outside of the Golden Eagle breeding season unless pre-construction Golden Eagle surveys have been conducted which demonstrate that no active nests are present within a 1-mile radius of the Project within the Rolling Meadow Ranch boundaries (an approximately 2,900-acre area).

5. FINDING:

CEQA Public Comments: There have been a significant number of comments from the public on the project and the Mitigated Negative Declaration. These comments have been considered and none of these comments change the conclusions of the Mitigated Negative Declaration.

EVIDENCE: a)

Comment that the project is unsuitable in this location. The proposed project is a large-scale industrial size operation in a rural area with resource and access issues.

This is an opinion and does not raise impacts which have not been addressed. The project can be authorized under the Commercial Medical marijuana land Use Ordinance, which allows for multiple acres of new mixed-light cannabis cultivation on parcels over 320 acres in size. The project complies with the access standards of the CMMLUO and the Initial Study and Mitigated Negative Declaration identifies that resource issues are not significant under CEQA.

b)

Holder Law Group asserts that because a July 30, 2018 version of the Biological report they obtained through a Public Records Act (PRA) request was referenced in the revised IS/MND and not attached to the IS/MND, the County has violated Section 21092(b)(1) of the Public Resources Code.

Both the revised and original biological report were made available as the Holder Law Group indicates. They obtained a copy of both. Section 21092(b)(1) requires that the documents be available and not that technical documents be attached to the IS/MND. The fact that the commenter was able to obtain the document demonstrates this provision was complied with and that the commenter was not prevented from meaningfully engaging the information.

- c) The Holder Law Group argues the county incorrectly relies on Mr. Dave Fisch's letter regarding potential hydrologic connectivity of the wells to surface water. Fisch's information is logs showing the well is in rock formations not characteristic of a subsurface flow of water connected to surface water. The use of groundwater not associated with a regulated aquifer or surface water is an allowed use of water.
- d) The Holder Law group states that the depth at which the wells are drawing water indicates that it is connected to surface water features. This conclusory statement is not supported by factual data to support the contention. The depth and location of the wells relative to surface water features indicates that it is not hydrologically connected to surface water features.
- e) The Holder Law Group misrepresents the qualifications of the parties they present as experts in hydrogeology. On page 25 of the letter they state that they retained hydrogeologists to review the adequacy of the IS/MND statements regarding the groundwater wells. The two parties they represent as hydrogeologists are geologists, not hydrogeologists.
- f) The geologists retained by the Holder Law Group to review the IS/MND primarily raise questions regarding the fact that the well production tests were not performed during the dry weather testing season set by the Department of Environmental Health. This is true but it does not preclude the well production information from being utilized for review purposes. The facts are these wells tested at a combined total of 63 gallons per minute, which if operated at that level would provide all the water needed for the project in 51 days. If the wells were only operated for 12 hours a day and at half the tested yield, the total water demand could still be provided in 204 days. This does not include the use of rainwater catchment. There is not a doubt that there is sufficient water to accommodate this use.
- g) The primary contention of evidence potential hydrologic connection to surface water made in the Holder letter appears to be the reference to the USGS report on geology and Groundwater Features in the Eureka area (1959). The Holder Law Group states that this study covers the project area, however this is incorrect. Page 3 of this report clearly identifies the project area as including an approximately 425 square mile area between 40 degrees 30 minutes North latitude and 41 degrees 0 minutes north latitude and between 123 degrees, 55 minutes west longitude and 124 degrees 25 minutes west longitude. The project site is at approximately 40 degrees 19 minutes north latitude and 123 degrees 47 minutes west longitude. This study is therefore inapplicable to the project site.
- h) Holder argues the appendix does not include important biological information such as the revised Botanical Report or the Golden Eagle Survey data, or the wetland data that supports the wetland report. This is false. These botanical surveys and golden eagle studies are attached in the appendix with the exception of the revised Bio report referenced above in b. It should also be pointed out that many of the comments made in the Holder letter in large part utilize CDFW comments made on the original IS/MND, rather than the revised and recirculated IS/MND that is the subject of the Planning Commission's review.
- i) The Holder letter makes multiple incorrect and inaccurate statements and allegations about the current project and revised IS/MND. In support of

these statements reference is made the staff report prepared for the August 20, 2020 Planning Commission and the initial IS/MND that are no longer relevant. Further, the Holder letter contains allegations that are not supported by its own references. For example, on Page 30 the Holder letter alleges that the wetland delineation report depicts the location of wetlands on the project site differently than does the Revised IS/MND. For support the letter states that the Revised IS/MND Figures 40 and 42 do not match the location of wetlands shown in the wetland delineation in Appendix M figures 2 and 4. This appears to be an intentional misinterpretation of these figures, as figures 2 and 4 in Appendix M show the study area where development is proposed and the wetland shown in the revised IS/MND is in fact identified accurately in the wetland delineation in figure 7 and 8 of Appendix M. These sort of misinterpretations and inaccurate references are found throughout the letter from the Holder Law Group.

- j) The Holder letter references previous letters sent to the applicant by the county and comments from the county's peer review consultant that are outdated and do not apply to the project as currently proposed or the current information and technical studies. For example, the letter states that the county asked for information regarding the potential hydrologic connectivity of the wells. These statements made by the county were prior to the wells being installed as there were no well logs or specific locational information to review to determine potential hydrologic connectivity. After the wells were installed this information was made available to the county and utilized as the basis for concluding that the wells are groundwater wells. Similarly, the letter relies on previous county correspondence requesting information regarding the road network to allege that this information does not exist, however the applicant responded to these requests by providing a thorough road evaluation of all proposed and existing roadways.
- k) The Holder letter emphasizes the existing and proposed roads would not be Category 4 or equivalent and includes a letter from a local civil engineer that states that McCann road does not meet the requirements for Category 4 or a functional equivalent. In response, it is important there is no requirement that any of the roads utilized or proposed for this project meet a Category 4 or equivalent. Nonetheless, the expert opinion provided by the Holder letter acknowledges that the Director of Humboldt County's Public Works Department has the authority to declare the road as meeting the category 4 equivalent. This is a critical acknowledgement because the Director of Public Works has in fact declared that McCann Road is meeting the functionally appropriate for the proposed project.
- l) The Holder letter inaccurately suggests that the project is not consistent with applicable regulatory requirements for setbacks from wetlands and watercourses because it does not meet the setbacks requested by the California Department of Fish and Wildlife in their review letter. CDFW requests are not the same thing as the regulatory requirements for setbacks. The project complies with the regulatory requirements of the County Zoning Ordinance and the state Water Board.
- m) The Holder letter asserts that the wetland study prepared for the project is inadequate and to demonstrate this includes comments from Pacific Watershed Associates that states that the National Wetlands Inventory (NWI) identifies a wetland that may be located in the project area but is not listed in the wetland study prepared for the project. The NWI is mapping prepared primarily from aerial analysis to identify possible wetlands and should not be considered as evidence to contradict an actual survey of the site. The PWA letter also is used to assert that the wetland analysis is incomplete because it did not include a full delineation of all wetlands on the site. This is also not a flaw in the wetland analysis because there is no requirement to fully delineate wetlands that are outside of the project area

- of impact. This is a very large land holding; 6,500 acres and a very small portion of the property is included in this development.
- n) The Holder letter states that the analysis of special status species and aquatic resources is incomplete and inaccurate. However, this is untrue. All stream crossings and vegetation impacts are listed in Appendix K. Rare plant surveys have been completed for all portions of the project site and proposed roads and improvements with the sole exception of the existing road to Alderpoint as that is an existing road.
 - o) The Holder letter also states that it does not include an analysis of the biological impacts for the improvements necessary to bring the roads up to a Category 4 standard. As mentioned previously, there is no requirement to bring the road up to a Category 4 standard.
 - p) CDFW Submitted Comments on the revised and recirculated IS/MND. Comments received from CDFW on the initially circulated IS/MND are not included as they have either been addressed in the revised IS/MND or discussed in the comment letter received from CDFW on December 30, 2020.
 - q) Clarification of CEQA Document Type. CDFW asks for clarification of whether the document was an Initial Study Checklist or an IS/MND given the title of the document and the minor error on page 33 of the CEQA document. The document type was stated in the Notice of Availability and intent to Adopt a Mitigated Negative Declaration that was sent to CDFW and published on the state CEQA clearinghouse website.
 - r) CDFW is concerned about this being Golden Eagle habitat due to a nest site identified in 2003. The 2003 nest identified in the CNNDB was unable to be located by the applicant's consultant and evidence has been submitted that no trees meeting the description of the nest tree were in existence in 2020. Nonetheless, CDFW continues to make comments regarding a one mile radius and potential impacts associated with this potential nest location. CDFW states that the project is within the line of sight of the nest, but how this was determined is unclear given that it does not appear that this nest is in existence. CDFW comments regarding potential unknown nest sites in the area resulted in a substituted mitigation measure for Golden Eagle protection requiring construction to occur outside of the Golden Eagle breeding season unless pre-construction Golden Eagle surveys have been conducted which demonstrate that no active nests are present within a 1-mile radius of the Project within the Rolling Meadow Ranch boundaries. CDFW expresses concern that even with this substituted mitigation measure the project could have an impact on foraging habitat for Golden eagles. While a concern, the appropriate CEQA threshold in this case is whether the project would "substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; or substantially reduce the number or restrict the range of an endangered, rare, or threatened species." – CEQA Guidelines Section 15065 (Mandatory Finding of Significance). As noted in the IS/MND, even Incorporating the extent of the meadows (33 acres) in which the facilities are located, the project can be conservatively estimated to impact 33 acres of habitat. The vast majority of the ranch, 7,077 acres will remain in its current undeveloped state. There is no indication that the removal of 33 acres of foraging habitat would cause the Golden eagle population to drop below self-sustaining levels or substantially reduce the habitat of the Golden eagle.
 - s) CDFW has additionally raised concerns regarding cumulative impact to grassland prairies that may be located within 1 or 2 miles of Golden Eagle nests as a result of the commercial cannabis application that have been submitted to Humboldt County. The County has not been provided with the data to support this contention, but it is expected the vast majority of these

applications that CDFW references are existing cultivation applications which would be considered as part of the environmental baseline under CEQA.

- t) CDFW states that the wells may be hydrologically connected to surface water and that by extension it could have an adverse impact on aquatic resources. As noted in the IS/MND these wells are all deep groundwater wells that have screening intervals that strongly indicate that they are within perched bedrock and are not connected to the underflow of any surface water features which would indicate no direct impacts to aquatic resources. This is based on the actual well log.
- u) CDFW has requested a requirement for the project to be reclaimed and the sites restored if the project permanently ceases. This has been added as a recommended condition of approval
- v) CDFW states that botanical surveys did not occur for the entire project area, specifically Facilities #6 through #9. However, botanical surveys have been completed for the entire project area with the exception of a survey for rare plants within the road to Alderpoint, as this is an existing road. Botanical surveys were completed for facilities #6 through #9 however the early season survey was not completed for these facilities only and therefore a mitigation measure is included that the survey work be completed and if anything sensitive or rare is found that these facilities will not be constructed.
- w) CDFW indicates that the project does not comply with the Humboldt County General Plan wetland setbacks however this is false. All wetland setbacks of the general plan will be met. Some wetlands on the site are proposed to be filled, at which point there will be no setbacks to apply. CDFW also opposes the filling of these wetlands, however as noted in the IS/MND the filling of these wetlands will be mitigated to a less than significant level through the creation of new wetlands at a nearly 3:1 ratio.
- x) CDFW raises concern regarding the two proposed greenhouses within the 100-year flood zone. The proposed development will comply with the county's Flood Prevention Ordinance which is designed to regulate flood hazards from development in the flood zone.
- y) CDFW raises concern regarding potential growth inducing impacts from the extension of PG&E power to the site. The site is zoned Agricultural Exclusive and TPZ, meaning that development potential is limited to those allowed consistent with the County's Open Space Action Program, of which agriculture such as cannabis is a compatible use. Substantial commercial, industrial or residential development expansion would not be permitted within these zone districts
- z) CDFW expresses concern regarding the mixed-light cultivation and requests compliance with dark-sky standards. This is a condition of the ordinance.
- aa) CDFW requests a mitigation measure of condition of approval to implement an invasive species management plan. This has been added as a recommended condition of approval.
- bb) CDFW recommends a condition of approval to prohibit rodenticides and similar harmful substances on the parcels. This has been added as a recommended condition of approval.
- cc) Air Quality – Commenters have expressed concern regarding potential impacts on air quality related to dust generation including the potential for air quality impacts from driving across the river bar portion of McCann Road. The dust generated by construction, and vehicle traffic would primarily be PM10 emissions and the North Coast Air Basin is in non-attainment for PM10. However, the IS/MND has measures in place to address air quality and the dust that could be generated would be below the amount identified by the North Coast Air Quality Management Board as triggering the need for additional mitigation measures. Typically, projects are compared to their local air district's thresholds of significance to projects in the review process;

however, the District has not formally adopted significance thresholds. Instead, they utilize the Best Available Control Technology emission rates for stationary sources as defined and listed in the Air District's Rule 110 - New Source Review and Prevention of Significant Deterioration. This rule states a significance threshold of 15 tons per year of PM10 emissions per emissions unit for determining if Best Available Control Technology (BACT) is required. The amount of pm10 generated from the proposed project is expected to be significantly below this threshold

6. FINDING

The proposed development is in conformance with the County General Plan, Open Space Plan, and the Open Space Action Program.

EVIDENCE

- a) The location of where the cannabis activities will take place are designated Agriculture General in the Humboldt County General Plan. General and intensive agriculture are allowable use types for these designations. The project is, therefore, consistent with the AG designation.
- b) The General Plan Circulation Element requires *Decisions to change or expand the land use of a particular area shall include an analysis of the impacts to existing and proposed transportation facilities and services so as to minimize or avoid significant operational, environmental, economic, and health-related consequences.* This project does not change the land use or uses anticipated in the Agricultural General Land Use Designation. The project is served by a County Maintained Road to the property and has secondary access. There will not be a decrease in the level of service of any roadway as a result of this project.
- c) The proposed project is consistent Conservation and Open Space Element Biological Resources as evidenced by compliance with the following polices and standards:
 1. Streamside Management Areas (BR-P5, P6): There are several mapped Streamside Management Areas (SMAs), including Cameron Creek and Beatty Creek, that are tributaries to the Eel River. All development associated with the project is located outside of SMAs.
 2. Wetland Identification (BR-P7): A wetland delineation has been prepared and all impacts to wetlands are being mitigated.
 3. Biological Resource Maps (BRP11): Based on a review of the Humboldt County WebGIS, the nearest mapped Marbled murrelet habitat is located more than 3 miles to the west of the subject parcel. The nearest Northern Spotted Owl (NSO) positive observation is located 1 mile to the northeast of Cultivation Area 1 on APN 217-181-028. A Golden Eagle Nest is shown on the CNNDDB approximately 1,000 feet of the Eel River on property not owned by the applicant. A review of the California Natural Diversity Database (CNDDDB) did not find any rare or species status species mapped for the subject parcels. A nine-quad search was conducted for the IS/MND and found the potential for habitat for 22 species of wildlife. A second nine-quad search using the 'Quick View' tool was conducted in August 2020 that found 47 species with potential habitat on the subject parcels. Table 8 of the IS/MND lists the species with a possibility of occurring in and around the project area. Mapping has been used to identify the potential for sensitive species consistent with this policy.
 4. Agency Review (BR-P12): Consistent with this policy, the county has consulted with the California Department of Fish and Wildlife. The initial consultation was in July 2017 and CDFW provided initial comments in January of 2018. CDFW was consulted in the preparation of the Initial Study/Mitigated Negative Declaration and in the Recirculation of the IS/MND.

- d) The Goals and policies of the Conservation and Open Space Cultural Resources have been complied with based on the referral of the project to the Northwest Information Center (NWIC), the Bear River Band of Rohnerville Rancheria and the Intertribal Sinkyone Wilderness Council. Although the Intertribal Sinkyone Wilderness Council did not respond, NWIC and the Bear River Band of Rohnerville Rancheria requested an archeological survey of the subject parcels. The report concludes that no significant historic resources were located during this survey, nine (9) pre-existing resources have been recorded on the property as a result of sixteen (16) previous surveys. None of the pre-existing resources will be impacted by this project, one historic burial is located adjacent an area proposed for development and should be monitored by a professional archaeologist during project implementation.
- e) The project is consistent with the Conservation and Open Space Scenic Resources policies as the only applicable policy is related to restricting light and glare. The project will comply with the CMMLUO which requires all night lighting be completely shielded in compliance with International Dark Sky Standards.
- f) The project is consistent with the Water Resources Element through compliance with the following goals and policies:
 - i. Sustainable Management (WR-P1).
Protection for Surface and Groundwater Uses (WR-P2).
The project does not utilize diversion from a surface water source, as water will come from wells that are not hydrologically connected to surface water and will use captured rainfall from the roofs of the greenhouses.
 - ii. Project Design (WR-P12). The project is not located in any SMA and thus will not detract from the function of rivers, streams, ponds, wetlands or their setback areas. The project will result in fill being placed in the floodplain to elevate greenhouses above the 100 year water surface elevation, but this will not affect the flow of the river and will fill and replace a wetland.
 - ii. Rain Catchment Systems (WR-P20). Rainwater catchment is a component of the project, providing approximately 300,000 gallons of the annual water use.
- g) 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.
- h) The project is in compliance with the Noise Element as there are no sensitive receptors which would be adversely affected by the project.
- i) The project complies with the Safety Element of the General Plan as follows:
 - i. Geologic Safety. The project site is not located in a mapped Alquist-Priolo fault zone nor is subject to liquefaction. The site is located in an area designated as Moderate Slope Instability (2) and High Slope Instability (3) in the County's GIS mapping. There are historic landslides located on the subject parcels, however, existing and proposed development will not be located in the historic landslide areas. Conditions of approval require the applicant to obtain grading permits from the Humboldt County Building Inspection Division for all grading required for the proposed project, which will require the grading plans

to meet State and local regulations. As conditioned, the project is consistent with the geologic resource policies of the Safety Element.

- II. Flooding: The subject site is outside any mapped flood hazard areas. The project site is not within levee inundation area, however, the parcels adjacent to the Eel River are mapped within a dam failure inundation area should the Scott or Cape Horn Dams, which are located in Mendocino County, fail in the future. According the Humboldt County Web GIS, the dam failure inundation areas are the similar to the 100-year-flood zone and all development for the proposed project is located outside of the 100-year flood zone, therefore, unlikely to be impacted by dam failures. At more than 200 feet above mean sea level and over 30 miles from the ocean, is project area is outside the areas subject to tsunami run-up. The project is consistent with the flood policies of the General Plan.
- III. Fire Hazard. The subject property is located within an area with very high hazard severity. The parcel is located within the State Fire Responsibility Area where the State of California has the primary financial responsibility for the prevention and suppression of wildland fires. CAL FIRE comments recommended compliance with the requirements of the County's Fire Safe Regulations. The Humboldt County Fire Safe Ordinance (Section 3111-1 et seq.) establishes development standards for minimizing wildfire danger in state responsibility designated areas. According to the operations plan, a maximum of 30 employees will be on-site during peak operations. In addition to the three groundwater wells, there will be 320,000 gallons of hard-sided tank storage that will store rain from rooftop runoff that can be used for fire protection if needed. CAL FIRE was sent referrals for the project. The project is consistent with the fire protection policies of the Safety Element.

- j) The project complies with the Community Infrastructure and Services Element, where standard 5 requires new industrial, commercial and residential development located outside of fire district boundaries to obtain written acknowledgment of available emergency response and fire suppression services from the local fire agency, including any recommended mitigation. For discretionary permits findings shall be made that no service is available, and the project shall be conditioned to record acknowledgment of no available emergency response and fire suppression services. The subject parcel is located outside the response area for the Fruitland Ridge Protection District and it is assumed that no service would be available from the district, and that no acknowledgment would be received. For this reason, the project is conditioned that the applicant records an "ACKNOWLEDGMENT OF NO AVAILABLE EMERGENCY RESPONSE AND FIRE SUPPRESSION SERVICES" from the Garberville Fire Protection District.

7. FINDING

The proposed development is consistent with the purposes of the Agriculture Exclusive (AE) zone in which the site is located.

EVIDENCE

- a) The open grassland and meadows on the subject property have been zoned AE.
- b) The AE Zone is intended to be applied in fertile areas in which agriculture is and should be the desirable predominant use and in which the protection of this use from encroachment from incompatible uses is essential to the general welfare.
- c) Section 55.4.8.2 of the Commercial Medical Marijuana Land Use Ordinance (and as modified to remove the limitation to medical cannabis) states that "Outdoor and Mixed-Light Commercial cultivation of cannabis for medical

use shall be allowed in specifically enumerated zones in which general agriculture is a principally permitted use, or conditional use. Commercial cannabis cultivation is specifically allowed in the AE Zoning designation subject to approval of the appropriate permit as required by the CMMLUO.

8. FINDING

The proposed 5.73 acres of cultivation and onsite processing is consistent with the requirements of the CCLUO and CMMLUO Provisions of the Zoning Ordinance.

- EVIDENCE**
- a) Section 55.4.3.1 of the Commercial Cannabis Land Use Ordinance states: *"Applications for Commercial Cannabis Activity land use permits filed on or before December 31, 2016 shall be governed by the regulations in effect at the time of their submittal..."* The subject application was filed on December 27, 2016 and thus is subject to the provisions of the CMMLUO.
 - b) Parcel Size and Cultivation Area (314-55.4.8.2.1.1): On parcels 320 acres or larger in size, in the eligible zoning districts described in 55.4.8.2.1, one additional cultivation area permit of up to one acre each for each one hundred acre increment (e.g. 3 for a 320 acre parcel, 6 for a 600 acre parcel, etc.), up to a maximum of 12 permits, may be issued with a Use Permit. The proposed action is for six Conditional Use Permits for 5.73 acres (or 249,598 square feet) of new mixed-light cultivation on APNs 217-201-001, 217-181-027, 217-181-028, 217-182-001, 217-024-011, 217-024-006, 217-024-010, 217-024-003, 217-025-001, which will be merged into one, legal parcel, consisting of over 800 acres that are split-zoned AE and TPZ. All proposed cultivation areas and associated development would be constructed on the AE-zone portions of the subject parcels.
 - c) Prime Agricultural Soils (55.4.8.2.1): The CMMLUO states that the cultivation area must be on prime agricultural soils with a slope of less than 15% and no more than 20% of the area of Prime Agricultural soils on the parcel may be utilized for commercial medical marijuana cultivation activities. Dirty Business Soil Consulting and Analysis prepared an analysis of the entire 6,500 acre ranch and found that there is 1,832,399 (42.1 acres) of prime agricultural soils on 42 different sites. This would allow up to 8.4 acres of cannabis cultivation. The 5.72 acre proposal complies with this requirement. The location of the facilities will be on prime agricultural soils in locations with slopes of less than 15%.
 - d) Limitation on Number of Permits (314-55.4.8.10): No more than four commercial cannabis activity permits may be issued to a single person, as defined in the referenced section. According to records maintained by the Department, the applicant has not applied for any other cannabis activity permits and is entitled to four. Pursuant to CMMLUO Section 314-55.4.8.2.1.1, on parcels 320 acres or larger in size, in the eligible, one additional cultivation area permit of up to one acre each for each one hundred acre increment (e.g. 3 for a 320 acre parcel, 6 for a 600 acre parcel, etc.), up to a maximum of 12 permits, may be issued with a Use Permit. The subject parcel contains over 800 acres; therefore, the applicant is eligible for 8 acres of cultivation. This application is for 5.73 acres (or 249,598 square feet) of mixed light cannabis cultivation. If approved, the applicant will hold 6 Conditional Use Permits pursuant to CMMLUO Section 314-55.4.8.2.1.1.
 - e) Accessory Processing (314-55.4.9.1): Processing onsite associated with a permit for cultivation is allowed as part of the approved permit. Processing is included within the project description and is allowed as part of the permit.

- f) Performance Standards – Water (314-55.4.11c, g, l, m): Estimated annual water usage is 4,628,200 gallons of water for both irrigation and domestic use. Water for irrigation is estimated to be 4,555,200, which equates 780 gallons per day per greenhouse (4.5 gallons/sf/cycle). The applicant will utilize drip irrigation to conserve water and ensure there is minimal to no run-off. The proposed project includes rain catchment systems to capture runoff and will be stored near each greenhouse site in hard-sided water storage tanks. Each greenhouse will have 20,000 gallons of water stored in four (4) 5,000 gallons storage tanks. There will be 320,000 gallons of hard sided storage tanks for rainwater catchment on site. Average annual rainfall is approximately 55 inches per year during an average year. Each processing facility will be larger than 4,000 square feet, therefore, more than 137,060 gallons of water could be captured by each of the five facilities. Based on average annual rainfall and size of the processing facilities, the 320,000 gallons of rain catchment is achievable. The applicant provided well permits and well completion logs. The well completion logs indicate the wells are all drilled over 200 feet deep. The well was drilled through layers of sandstone and shale. The applicant provided a Letter regarding well connectivity from Fisch Drilling dated February 15, 2018. The letter states that the wells are likely drilled into perched bedrock given the soil type and depth of the wells. Therefore, the wells are hydrologically disconnected from surface water and do not require water rights for diversion and use from the State Water Resources Control Board. Conditions of approval require the applicant to meter water use to demonstrate that the well meets the water demand and provide evidence of metering at the time of annual inspection. Should the wells not provide sufficient water for the operation, the applicant is required to modify this permit and propose a different non-divisionary source of water, such as rain catchment and/or reduce the size of the cultivation area to be consistent with water availability. As conditioned, the project therefore conforms to the performance standards for water.
- g) Performance Standards-Setbacks (§314-55.4.11.d): The CMMLUO requires the area of cannabis cultivation and on-site processing to be setback at least 30 feet from any property line, and 600 feet from any school, school bus stop, church or other place of religious worship, public park, or tribal cultural resources (TCRs). Based on a review of aerial imagery and referral agency comments, the cultivation area conforms to the 600-foot setback for schools, school bus stops, parks, or places of religious worship. The cultural study prepared for the project indicated that there were not any nearby Tribal Cultural Resources. The cultivation activities are more than 30 feet from any property line
- h) Performance Standards-Generator Noise (314-55.4.11.o): The noise produced by a generator used for cannabis cultivation shall not be audible by humans from neighboring residences. The combined decibel level for all noise sources, including generators, at the property line shall be no more than 60 decibels. Where applicable, sound levels must also show that they will not result in the harassment of Marbled Murrelet or Spotted Owl species, when generator use is to occur in the vicinity of potential habitat. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service. The project power will be provided by PG&E. Generator noise is not applicable to this application.

9. FINDING

The project as proposed complies with the requirements of the Streamside Management Ordinance requirements.

- EVIDENCE**
- a) Based on a review of the Humboldt County WebGIS and the site plans, there are several SMAs on the subject parcels, including Cameron Creek and Beatty Creek, that are tributaries to the Eel River.
 - b) The project developments are plotted outside of the buffered areas for watercourses as defined by the SMA ordinance and the State Cannabis Cultivation Policy.
 - c) This project will consist of 5 miles of rocked access roads with multiple stream crossings. Overall, there is one bridge and 20 culverts on the access road. These culverts maybe a mix of stream crossing and ditch relief culverts. The project will also improve crossings on the internal ranch roads. A total of 45 crossings (including two existing bridges) were identified. It was determined that 34 of the 45 crossings were in need of culvert installation, replacement or repair. Conditions of approval require the applicant to submit a Lake or Streambed Alteration Notification to the California Department of Fish and Wildlife (CDFW) for all improvements with their jurisdiction related to the development of the cannabis cultivation project, including, but not limited to, the installation, repair and maintenance of the stream crossings, including bridges, along the access roads and internal ranch roads that connect the cultivation areas. The applicant is required to adhere to and implement the projects and recommendations contained in the Final SAA and provide evidence to the Planning Department that the projects includes in the Final SAA are completed to the satisfaction of CDFW.

10. FINDING The project provides sufficient parking to support the n8mber of employees working on site.

- EVIDENCE**
- a) Off Street Parking for Agricultural use is one Parking space per employee at peak shift. A minimum of three parking spaces are required
 - b) The project will provide 30 parking spaces for the 22 employees.

11. FINDING Legal Lot Requirement (312-1.1.2): the Zoning Ordinance requires that Development permits be issued only for a lot that was created in compliance with all applicable state and local subdivision regulations. The lots in question were legally created.

- EVIDENCE**
- a) The parcels of land known as APNs 217-201-001, 217-181-027, 217-181-028, 217-182-001, 217-024-011, 217-024-006, 217-024-010, 217-024-003, 217-025-001 consist of multiple patent and other legal parcels which will be merged as a condition of permit approval. There is no evidence indicating there have been any subsequent acts to merge or divide these parcels. Therefore, the subject parcels were lawfully created in its current configuration and can be developed as proposed.

12. FINDING The project as approved with mitigation measures and conditions of approval will not be operated or maintained in a manner that will be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

- EVIDENCE**
- a) The access for the project is located off McCann Road. This County road currently crosses the Eel River using McCann Bridge, a low-water bridge. When the Eel River flow volume increases to 3,500 cubic feet per second (cfs), typically late November through late April, Humboldt County closes the McCann Bridge and vehicle traffic across the bridge is not possible. The County will be replacing the low-water bridge with a year-round bridge sometime in the next decade (www.mccannbridge.com). Alderpoint Road will provide cannabis project access when the low water bridge over the Eel River (McCann access) is not available (typically late November through late April. Alderpoint Road is a major rural collector for Humboldt county with speeds up to 45 mph. This road is paved and has a centerline and meets Category 4 road standards and is therefore appropriate for commercial

cannabis traffic. From the intersection of Alderpoint Road, project traffic accesses the project areas through a combination of travel on-property roads and deeded easements. From Alderpoint Road, the length traveled on interior project roads and easements to the nearest Facility (Facility #16) is 8 miles; the length of the interior roads traveled to the furthest Facility (Facility #1) is approximately 12.3 miles.

- b) According to the Rolling Meadows Ranch, INC Access Assessment for Compliance with Humboldt County Code Section 3112-12 - Fire Safe Regulations prepared by Northpoint Consulting Group, Inc., revised October 2020, the Alderpoint Access Road is functionally appropriate for the proposed project (see Appendix C of the draft Initial Study and Mitigated Negative Declaration). The Department of Public Works Additionally, the private road intersection will be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance).

13. 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.

NOW, THEREFORE, be it resolved, determined, and ordered by the Humboldt County Planning Commission takes the following actions:

1. Adopt the Mitigated Negative Declaration for the Rolling Meadow Ranch, LLC, project; and
2. Make the findings in support of approving the Conditional Use Permits; and
3. Approve the Conditional Use Permits (Record Number: PLN-12529-CUP) subject to the conditions and the Mitigation Monitoring and Reporting Plan in Attachment 1.

Adopted after review and consideration of all the evidence on January 21, 2021.

The motion was made by Commissioner Mike Newman and seconded by Commissioner Melanie McCavour

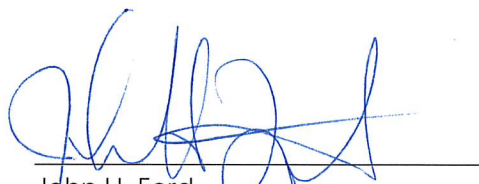
AYES: Commissioners: Alan Bongio, Noah Levy, Mike Newman, Melanie McCavour

Nos: Commissioners: Peggy O'Neil

ABSENT: Commissioners: Ronnie Pellegrini, Brian Mitchell

DECISION: Motion carries 4/1

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