

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

Resolution Number: 23-

Record Number: PLN-11607-CUP

Assessor's Parcel Number: 522-023-001

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and denying the 707 Cultivation Company, LLC, Conditional Use Permit and Special Permit.

WHEREAS, 707 Cultivation Company, LLC submitted an application for a Conditional Use Permit for an existing 43,560 square foot (SF) outdoor cannabis cultivation operation and a Special permit for maintenance and use of two points of diversion; and

WHEREAS, The Planning and Building Department, after review of the site history, Notice of Violation issued by CDFW and proposed water usage and site constraints, has determined that there is not available water on the site to support the proposed cannabis cultivation; and

WHEREAS, the project is exempt from environmental review pursuant to section 15270 of the CEQA Guidelines; and

WHEREAS, the Humboldt County Planning Commission held a duly-noticed public hearing on October 19, 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:** A request for a Conditional Use Permit for 43,560 square feet of existing outdoor commercial cannabis cultivation and a Special Permit is also requested for development within the Streamside Management Area (SMA) for the continued use and maintenance of the points of diversion infrastructure and for relocation of water tanks and other infrastructure located within the SMA areas.

EVIDENCE: a) Project File: PLN-11607-CUP

- 2. FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been complied with as the project is exempt from environmental review pursuant to Section 15270 of the CEQA Guidelines, as a project which is disapproved.

EVIDENCE: a) Section 15270 of the CEQA Guidelines.

FINDINGS FOR CONDITIONAL USE PERMIT AND SPECIAL PERMIT

- 3. FINDING** The proposed cannabis operation is not consistent with the performance standards and requirements of the Commercial Medical Marijuana Land Use

Ordinance.

- EVIDENCE**
- a) Section 314-55.4.11(a) of the CMMLUO requires that the cannabis cultivation and other cannabis activity be conducted in compliance with all laws. The cannabis cultivation has operated in violation of state law with unpermitted surface water diversions due to the lack of an LSAA issued by CDFW for the diversions, as evidenced by the Notice of Violation issued on September 11, 2020.
 - b) Section 314-55.4.11(l) of the CMMLUO requires that the applicant forbear from surface water diversions during the period of May 15th through October 31st of each year, or comply with an appropriate forbearance period established by a licensed engineer or hydrologist or similar qualified professional, or obtain approval from the RWQCB through compliance with NCRRQCB Order No. 2015-0023 and/ preparation of a Water Resources Protection Plan. The applicant has utilized the surface water diversions during the required forbearance period and has not demonstrated an appropriate alternative forbearance period or other approval from the RWQCB.

4. FINDING

The proposed cannabis cultivation would be detrimental to the public health, safety, and welfare.

- EVIDENCE**
- a) Evidence presented by CDFW indicates that the existing groundwater well is not capable of producing sufficient water to serve the irrigation needs of the project.
 - b) The applicant does not have a permitted agreement from CDFW to utilize the proposed points of diversion, nor have they applied to CDFW for such approval.
 - c) The state water right limits the amount of water utilized to 0.9 acre-feet, which is far below the amount necessary to support the cannabis cultivation.
 - d) The applicant has not proposed rainwater catchment which may be the only option available to support the irrigation. Even were rainwater catchment to be proposed, the subject property is heavily timbered and has very steep topography, which indicates that development of 700,000 gallons of rainwater storage necessary to support the 43,560 square feet of cultivation would have adverse impacts to timber resources and/or require substantial earthwork. Development of a reliable source of water to serve the cultivation operation has not been demonstrated to be feasible on the site.
 - e) The lack of available water and history of unpermitted diversionary withdrawals indicate that the site can only be operated through continued unpermitted diversionary water withdrawals in the forbearance period in excess of the amount of water authorized in the state water right.

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
- Denies the Conditional Use Permit and Special Permit for 707 Cultivation Company, LLC.

Adopted after review and consideration of all the evidence on October 19, 2023.

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