

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

Resolution Number: 24-

Record Number: PLN-11653-CUP

Assessor's Parcel Number: 107-054-014

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Scott Roberts Conditional Use Permit.

WHEREAS, Scott Roberts provided an application and evidence in support of approving a Conditional Use Permit for an existing 18,462 square feet (SF) of pre-existing mixed light cannabis cultivation and 1,840 SF of ancillary nursery and propagation area.; and

WHEREAS, the lead agency, prepared an Addendum to the 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 May 2, 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 Planning Commission makes all the following findings:

- 1. FINDING:** **Project Description:** A Conditional Use Permit for 18,462 square feet existing mixed light commercial cannabis cultivation and 1,840 square feet of ancillary nursery. Estimated annual water usage is 392,260 gallons sourced from rainwater catchment and an existing well. Existing irrigation water storage totals 93,300 gallons. Drying will occur onsite, all other processing activities will be performed offsite by a licensed processor. Electricity is provided by solar panels with a proposed emergency backup generator.

EVIDENCE: a) Project File: PLN-11653-CUP

- 2. FINDING:** **CEQA.** The project complies with the requirements of the California Environmental Quality Act. The Humboldt County Planning Commission has considered the Mitigated Negative Declaration previously adopted for the Commercial Medical Marijuana Land Use Ordinance as well as the Addendum to the Mitigated Negative Declaration that was prepared for the project pursuant to Section 15164

of the CEQA guidelines.

- 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 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.
 - c) A Site Management Plan (SMP) was prepared by the applicant for the subject site in August 2019 in compliance with the State Water Resources Control Board (SWRCB) Cannabis General Order for Waste Discharge (WQ2019-0001-DWQ). The project is conditioned to adhere to and implement the recommendations of the SMP and maintain enrollment in the State Cannabis Cultivation Policy for the life of the project.
 - d) Potential Northern Spotted Owl habitat exists in the vicinity and the nearest activity center is over 1.3 miles from the site. As a pre-existing cultivation site which applied for permitting prior to December 31, 2019, the site is located beyond the distance established in Humboldt County Code section (HCC) 314-55.4.12.1.10, which would have required a biologist to conduct a disturbance and habitat modification assessment. Use of the generator is subject to the standard condition limiting noise to 50dB at 100 feet from the backup generator or at the edge of the nearest forest habitat, whichever is closer. As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively impact northern spotted owl or other sensitive species.
 - e) Staff review of the CNDDDB concluded that continuing the operation will not impact species of concern.
 - f) A Road Evaluation Report concludes the route leading to the subject parcel is developed to the equivalent of a Category 4 road standard and is suitable for safe access to and from the project site. The farm is owner operated with no employees. No increase in vehicle traffic is anticipated as part of the proposed project.
 - g) A Cultural Resource Survey was conducted by Dimitra Zalarvis-Chase and Cydney Steele of DZC Archaeology & Cultural Resource Management and received August 3, 2021. One (1) historic resource was identified on the parcel. The survey provided recommendations that, if implemented, would eliminate any potential adverse effects to the resource. The survey recommended installing a No. 2 base rock cap

over the resource, flagging the resource boundary, and prohibiting all cultivation and related activities above and below the resource boundary. The Bear River Band of the Rohnerville Rancheria's Tribal Historic Preservation Office inspected the subject parcel and concurred with the Survey's recommendations. The recommendations to protect the resource described within the Survey have been incorporated into the conditions. Inadvertent discovery protocol is also included within the conditions.

- h) After removal of the one greenhouse from within the Streamside Management Area (SMA), all existing and proposed development will meet appropriate SMA Class II watercourse setbacks.

FINDINGS FOR CONDITIONAL 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 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 Agricultural Exclusive (AE) in which the site is located.

EVIDENCE: a) The AE Zone is applied to areas of the county in which general agriculture uses are the desirable predominant uses.

- b) All general agricultural uses are principally permitted in the AE Zone.
- c) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 43,560 SF of existing outdoor cannabis and up to 22,000 SF of existing mixed-light cannabis on a parcel over 1 acre 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 18,462 SF of mixed light cultivation on a 64.4-acre parcel is consistent with this and with the cultivation area verification prepared by the County.
- d) All cultivation is at least 30 feet from all property lines and there are no

public parks, churches, school bus stops or other sensitive receptors within 600 feet of the cultivation areas.

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 (HCC 314-55.4.8.2.2).
 - b) The parcel was created in compliance with all applicable state and local subdivision regulations, as it was created in its current configuration through an approved parcel map, filed in Book 11 of Parcel Maps, Page 54 on Amended Parcel Map No. 1129.
 - c) Water for irrigation is sourced from rainwater catchment gutters and an existing permitted well.
 - d) A Road Evaluation Report found the access roads to be functionally appropriate for the expected traffic.
 - e) The slope of the land where existing cannabis will be cultivated is 15% to 30 % on existing flats. All relocated cannabis will be on slopes of 15% or less.
 - f) Power is provided by solar panels with an inverter and battery system which supply power to the greenhouse lighting and fans. Backup emergency power is provided by a Honda 3000 generator, which is not stored onsite and only brought onsite when needed.
 - g) The cultivation of cannabis will not result in the net conversion of timberland post environmental baseline (January 1, 2016). No timber conversion is proposed.
 - h) 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, public park or Tribal Cultural Resource.

6. FINDING: The cultivation of 18,462 square feet of existing commercial cannabis 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 found to 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 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 will not change the character of the area due to the large parcel sizes in the area.
- c) Irrigation water for the project is provided by rainwater catchment and a permitted well that has been verified by Lindberg Geologic Consulting as having a low likelihood of being connected to surface waters or neighboring wells. Based on analysis of the potential water supply from the well and rainwater catchment, there is likely sufficient water to support the existing cultivation.
- d) A Site Management Plan (SMP) was prepared by the applicant for the subject site in August 2019 in compliance with the State Water Resources Control Board (SWRCB) Cannabis General Order for Waste Discharge (WQ2019-0001-DWQ). The project is conditioned to adhere to and implement the recommendations of the SMP and maintain enrollment in the State Cannabis Cultivation Policy for the life of the project.

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 but does have the potential to support one housing unit and has two residences onsite. The approval of cannabis cultivation on this parcel will not conflict with the onsite residences.

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 Cape Mendocino Planning Watershed, which under Resolution 18-43 is limited to 650 permits and 223 acres of cultivation. With the approval of this project the total approved permits in this planning watershed would be 233 cultivation permits and the total approved acres would be 90.55 acres of cultivation

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 approves the Conditional Use Permit for Scott Roberts, subject to the conditions of approval attached hereto as Attachment 1.

Adopted after review and consideration of all the evidence on **June 6, 2024**.

The motion was made by COMMISSIONER _____ and second by COMMISSIONER _____ and the following 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