

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

Resolution Number: 23-

Record Number: PLN-12848-SP

Assessor's Parcel Number: 522-033-010

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the 4 Ponds, LLC, Special Permits.

WHEREAS, 4 Ponds, LLC, submitted an application and evidence in support of approving a Special Permit for the continued operation of an existing 10,000-square-foot (SF) outdoor cannabis cultivation operation with appurtenant propagation and drying activities, and a Special Permit for work within the Streamside Management Area (SMA) for the remove two water tanks, tank infrastructure, and to allow associated remediation activities within the SMA.

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 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; 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 the Special Permits 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 Special Permit for 10,000 square feet of existing outdoor cannabis cultivation and a 275 square-foot nursery. Water for irrigation is sourced from an existing onsite well. Water for irrigation is stored in seven tanks, totaling 18,200 gallons, and one 2,800-gallon tank reserved for fire protection. An additional 60,000 gallons of tank storage is proposed to support irrigation needs. An estimated 116,800 gallons of water is used per growing season for irrigation. Processing, including drying and bucking, occurs onsite in an existing outbuilding, and trimming will take place off site at a licensed processing facility. Electricity is sourced from solar and generator power and the project is recommended to be conditioned to require transition to on-site renewable energy by January 1, 2026. No employees are proposed. A Special Permit is also requested for work within the Streamside Management Area (SMA) to remove two water

tanks, associated tank infrastructure, and to allow for associated remediation activities within the SMA.

EVIDENCE: a) Project File: PLN-12848-SP

- 2. FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The 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 adopted by the Humboldt County Board of Supervisors on January 26, 2016.

- EVIDENCE:**
- a) Addendum prepared for the proposed project.
 - b) The proposed project does not present substantial changes that would require major revisions to the previous MND. No new information of substantial importance that was not known and could not be known at the time was presented as described by §15162(c) of CEQA Guidelines.
 - c) The Site Management Plan (SMP) prepared by Mother Earth Engineering identifies three watercourses running through the site: an intermittent Class II stream, an ephemeral Class III stream, and an intermittent Class III stream. All four cultivation areas are outside of the Streamside Management Area (SMA) buffers, but two HDPE hard tanks are shown within the Class II 100-foot SMA buffer. The SMP (Attachment 3) includes corrective actions to remediate the streambank per the CDFW LSAA, remove all unused cultivation area materials, and reestablish vegetation on the disturbed areas and relocate the two HDPE tanks outside the riparian area. As a result, the project is conditioned that these tanks and associated infrastructure be removed, and that the area be restored to its natural state. The additional Special Permit that is being requested will allow for this work within the SMA to be completed.
 - d) A Lake or Streambed Alteration Agreement (LSAA) was submitted to the California Department of Fish and Wildlife (CDFW) in July 2020. CDFW issued Notification No. 1600-2020-0350-R1 on April 6, 2021, for a crossing upgrade, onstream reservoir remediation, and streambank alteration remediation. An accompanying Hydrologic Analysis prepared by Mother Earth Engineering evaluated the existing stream crossing peak flow in order to properly size the crossing for a 100-year flood event. As a condition of approval, the applicant shall execute the LSAA issued by CDFW in compliance with the agreement or any amendment to the agreement.
 - e) There are no mapped sensitive species onsite; however, the nearest Northern Spotted Owl (NSO) habitat located within the Six Rivers

National Forest is within 1 mile of the site. A Biological Assessment was not prepared for the project and while there is the potential for some sensitive and protected species to be present onsite, the proposed project is to continue use of existing developed sites and the potential indirect impacts are mitigated through implementation of best management practices, the SMP required by the State Water Resources Control Board, and LSAA with CDFW. According to the specifications, the Honda generator has a sound level of 62 dB and the WhisperWatt has a sound level of 65 dB(A) at 23 feet. A generator shed is being planned to house the WhisperWatt generator to minimize noise. Therefore, expected daily activities will not produce noise levels great enough to affect NSO. Per the applicant, the generators are used in the evenings between May and November. The project is conditioned to ensure that generator or other operational equipment created noise meets the noise level threshold. Conformance will be evaluated using current auditory disturbance guidance prepared by the United States Fish and Wildlife Service. Conditions of approval require the applicant to submit a revised energy use plan that describes the power demand for the project that includes a description of what power is required for (e.g., propagation, cultivation, and processing), how the size of the generators are reasonable based on the power demand, and how the operation will transition to use of 100% renewable energy (e.g., solar, wind, and/or hydropower) sources by January 1, 2026, with a generator to be used for emergencies only. The project is conditioned to adhere to Dark Sky Association standards for greenhouse lighting and security lighting, 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 affect NSO or other sensitive species.

- f) A Less Than Three Acre Conversion Exemption (1-15EX-133HUM) was issued by CAL FIRE in 2015. A Timber Operations Work Completion and/or Stocking Report was prepared by the California Department of Forestry and Fire Protection (Cal Fire) and concluded that on April 28, 2016 “all work on this Less-Than-3- Acre Conversion Exemption was completed. No Stocking Report is required.” Cal Fire provided a Final Completion Inspection Report for the project on November 28, 2016, and concluded that all timber operations including slash treatment appear to have been completed. No violations were observed in the logging area.
- g) Road evaluation reports were prepared for Old 3 Creeks Road and the unnamed access road by the applicant, which indicate that both are

maintained by a road association and that both roads are developed to the equivalent of a road Category 4 standard.

- h) The project is in the Hoopa Aboriginal Ancestral Territories. The project was referred to the Northwest Information Center and Hoopa Valley Tribe in January 2018. A Cultural Resources Investigation was not required for the project. Ongoing conditions of approval are incorporated regarding the Inadvertent Discoveries Protocol to protect cultural resources.

FINDINGS FOR SPECIAL PERMITS

- 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 Unclassified (U) in which the site is located.

EVIDENCE: a) The U zone is applied to areas of the County in which general agriculture residential uses are the desirable predominant uses.

b) All general agricultural uses are principally permitted in the U zone.

c) Humboldt County Code Section 314-55.4.8.2.2 allows cultivation of up to 10,000 SF of existing cannabis cultivation on a parcel over 1 acre subject to approval of a Special Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for 10,000 SF outdoor cultivation on a 60-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 has been determined to be a legal parcel per Certificate of Subdivision Compliance, Instrument Number 2020-007877, Recorded on May 15, 2020.

- c) The project will obtain water from a permitted groundwater well.
- d) Road evaluation reports were completed by the applicant in July 2020. The Evaluations addressed Old 3 Creeks Road and the unnamed access road, which indicate that both are maintained by a road association and that both roads are developed to the equivalent of a road Category 4 standard and were found to be functionally appropriate for the expected traffic.
- e) The slope of the land where cannabis will be cultivated is less than 15%.
- f) The cultivation of cannabis will not result in the net conversion of timberland. A Timber Operations Work Completion and/or Stocking Report was prepared by Cal Fire and concluded that on April 28, 2016 “all work on this Less Than Three Acre Conversion Exemption was completed. No Stocking Report is required.”
- g) 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 and more than 600 feet from any school, church, public park, or Tribal Cultural Resource.

6. FINDING:

The cultivation of 10,000 SF of outdoor 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 a road that has been determined by the applicant 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 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 sizes in the area.
- c) Irrigation water will come from a groundwater well that has been permitted by the Division of Environmental Health. Use of portable toilets until a permitted onsite wastewater treatment system can be installed is made a condition in accordance with the Division of Environmental Health’s approval.
- d) 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.

- 7. 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 Lower Trinity Planning Watershed, which under Resolution 18-43 is limited to 169 permits and 58 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 62 permits and the total approved acres would be approximately 26.9 acres of cultivation. If all of the Supply Creek projects on the October 19, 2023 Planning Commission agenda are approved there would be a total of 73 permits and 34 acres approved within the Lower Trinity Planning Watershed.

- 8. 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.

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 Special Permits for 4 Ponds, LLC subject to the conditions of approval attached hereto as Attachment 1A.

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