

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

Resolution Number 23-

Record Number PLN-11537-ZCC

Assessor's Parcel Numbers: 107-236-013

Resolution by the Zoning Administrator of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Kings Peak, LLC Zoning Clearance Certificate and Special Permit.

WHEREAS, Kings Peak, LLC submitted an application and evidence in support of approving a Zoning Clearance Certificate for the continued operation of an existing 3,000 square foot (SF) outdoor cannabis cultivation operation with appurtenant propagation and drying activities, and a Special Permit for development in a Streamside Management Area (SMA);

Now, THEREFORE BE IT RESOLVED, that the Zoning Administrator makes all the following findings:

- 1. FINDING:** **Project Description:** An application for a Zoning Clearance Certificate for 3,000 square feet of Outdoor cannabis cultivation in existence prior to Jan. 1, 2016. The application includes a Special permit for work within a Streamside Management Area (SMA) for the continued use and maintenance of a Point of Diversion (POD) from surface water, restoration of stream channel due to past unauthorized grading within the channel, and removal of fill materials within the channel and restoration to its original grade and condition. The surface water diversion is used for irrigating cannabis. Existing water storage totals 17,000-gallons, and project conditions require additional 5,000-gal. of storage totaling 23,000-gal. to allow for forbearance during the summer months. Annual irrigation budget is approximately 19,000-gal. All processing is proposed to occur offsite, as cannabis is harvested for fresh-frozen. Power use is very limited and provided by PG&E, as the POD is gravity fed and processing is proposed to occur offsite. Operations are conducted by the applicant using no employees. No Onsite Wastewater Treatment System (OWTS) exists onsite, so portable toilet and handwashing station will be onsite during operations, and applicant will provide service receipts at each annual inspection to ensure compliance with this permit term is satisfied and ongoing.

EVIDENCE: a) Project File: PLN-11537-ZCC

- 2. FINDING:** **CEQA.** The project complies with the requirements of the California Environmental Quality Act. The Humboldt County Zoning

Administrator has considered the Mitigated Negative Declaration prepared for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) adopted by the Humboldt County Board of Supervisors on January 26, 2016 and the addendum prepared for the John Mahoney project.

- 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 was prepared by Cenci Consulting to show compliance with the North Coast Regional Water Quality Control Board Order No. 2019-0001.
 - d) Road Evaluation Reports were provided by the applicant, in addition to previous evaluations from nearby cannabis applicants and permittees, indicating the privately maintained portion of Panther Gap Road meets or exceeds Category 4 Road Standards or equivalent. Public Works' recommendations to ensure if the County road has a gravel surface at the location of the driveway, the driveway apron shall be rocked for a minimum width of 18 feet and a length of 50 feet, and is made a condition of approval.
 - e) Project was referred to affected tribal entities and aligns with their requests, if applicable. Project has been conditioned for inadvertent discovery protocol for any ground disturbing activities.

FINDINGS FOR SPECIAL 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.
 - b) General Plan 2017, Section 10.6.4 discusses methods to identify and protect sensitive cultural resources and archaeological artifacts, and

methods to address development with the potential of losing or destroying those resources. A previous Archaeological Survey covered a portion of the project area, and affected tribal entities responding to the project referral recommended inadvertent discovery protocol to be implemented for any ground disturbing activities. The project aligns with the General Plan requirements for identifying and protecting sensitive cultural resources.

The proposed development is consistent with the purposes of the existing Unclassified (U) zone designation in which the site is located.

4. FINDING

The U-Zone is applied to areas of the county in which general agriculture and timber production uses are the desirable predominant uses.

EVIDENCE

- a) Continued cultivation of commercial cannabis is principally permitted in the U-Zone.
- b) Humboldt County Code Section 314-55.4.8.9 allows cultivation of up to 5,000 SF of existing cannabis on a parcel over 1 acre subject to approval of a Zoning Clearance Certificate and a determination that the cultivation was in existence prior to January 1, 2016. The application for 3,000 SF outdoor cultivation on a 40-acre parcel is consistent with this and with the cultivation area verification prepared by the County.
- c) The project relies on a Point of Diversion from surface waters to irrigate cannabis. A Special Permit is required to allow development within an SMA for the continued use and maintenance of the diversion. Additionally, it was determined the stream channel contained dirt fill and debris, and approved LSAA from CDFW indicates the applicant shall clear the channel and restore it to its natural condition. The stream channel restoration has been made a project condition of approval and is required to be completed within two years of project approval. HCC, Section 314-61.1.9.1.6 allows for wells and spring boxes for water diversions, and Section 314-61.1.9.1.8 allows for bank protection, which covers the removal of fill and debris.

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 - Unclassified (HCC 314-55.4.8.9).

The parcel was created in compliance with all applicable state and local subdivision regulations, as documented by Certificate of Subdivision Compliance recorded December 2017 (2017-02319) in the office of Recorder of Humboldt County .

- a) The project will obtain water from a surface water diversion, and stored in a series of hard sided tanks totaling 6,300-gallons. Additional water storage installation in the amount of 15,000-gal. is a condition of project approval.
- b) Road Evaluation Reports were completed by the applicant. Public Works' recommendations to ensure apron of privately maintained roadway is developed to commercial standards, including if the County road has a gravel surface at the location of the driveway, the driveway apron shall be rocked for a minimum width of 18 feet and a length of 50 feet. This is made a condition of approval.
- c) The slope of the land where cannabis will be cultivated is less than 15%
- d) Power will be provided by PG&E.
- e) The cultivation of cannabis will not result in the net conversion of timberland.
- f) 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.
- g) The cultivation of 3,000 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.

5. FINDING

The site is located on a road that has been determined to safely accommodate the amount of traffic generated by the proposed cannabis operation.

EVIDENCE

- a) 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 and disparity between developed areas in the area.

- b) The location of the proposed cannabis cultivation is more than 300 feet from the nearest off-site residence, and more than 270 feet from any adjacent undeveloped separately owned parcel.
- c) Irrigation water will come from a point of diversion and stored in tanks totaling 17,000-gallons, with a condition to add an additional 5,000-gal. of hard sided storage to provide adequate irrigation for cannabis.
- d) Provisions have been made in the applicant's Site Management Plan to protect water quality and thus runoff to adjacent property and infiltration of water to groundwater resources will not be affected.
- e) 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.

6. FINDING

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.

EVIDENCE

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.

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

This project is located in the Cape Mendocino planning watershed which is limited to 650 permits and 223 acres of cultivation. If approved the Cape Mendocino watershed would have 238 permits and a total of 83.62 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 Zoning Clearance Certificate and Special Permit for Kings Peak, LLC subject to the conditions of approval attached hereto as EXHIBIT A and the Cultivation Operations Plan attached hereto as EXHIBIT B and Site Plan attached hereto as Exhibit C.

Adopted after review and consideration of all the evidence on August 3, 2023

I, John H. 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