

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

Resolution Number 23-104

Record Number PLN-12408-SP

Assessor's Parcel Numbers: 210-061-008

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving Slow and Steady, LLC, Special Permit.

WHEREAS, Slow and Steady, LLC, provided an application and evidence in support of approving a Special Permit for 7,400 square feet of existing commercial cannabis cultivation supported by a 600 square foot ancillary nursery.

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 November 30, 2023 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:** Special Permit for 7,400 square feet of existing outdoor commercial cannabis cultivation supported by a 600 square foot ancillary nursery. Annual irrigation water usage is estimated at 35,700 gallons sourced from a point of diversion and supported by proposed storage totaling 55,775 gallons. Processing will occur offsite, energy is provided by a generator, and a maximum of two employees will be present during peak operation.

EVIDENCE: a) Project File: PLN-12408-SP

- 2. FINDING:** **CEQA:** The project complies with the requirements of the California Environmental Quality Act. The Humboldt County Zoning Administrator has considered the Addendum to the Final 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.

- 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 Water Resources Protection Plan was prepared demonstrating compliance with the North Coast Regional Water Quality Control Board Order No. 2015-0023.
 - d) The parcel takes access from a private road which is the equivalent to a Category 4 standard.
 - e) A Cultural Resources Survey was completed by Archaeological Research and Supply Company which found no sensitive cultural resources.

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.

- 4. FINDING** The proposed development is consistent with the purposes of the Unclassified (U) zone in which the site is located.

- EVIDENCE**
- a) The U Zone is intended to be 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.

- 5. FINDING** The proposed development is consistent with the requirements of the CMMLUO Provisions of the Zoning Ordinance.

- EVIDENCE**
- a) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 10,000 square feet of existing outdoor cannabis on a parcel over 5 acres subject to approval of a Special Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for 7,400 square feet of existing outdoor cultivation on a 60-acre parcel is consistent with the CMMLUO and with the cultivation area verification prepared by the County.
 - b) The parcel was created in compliance with all applicable state and local subdivision regulations, as described in the Notice of Merger and Certificate of Subdivision Compliance dated May 10, 2022, recording number 2022-009289.
 - c) The project will obtain water from a diversionary water source as described in the water right certificate H100239 and subject to forbearance and the terms of Lake or Streambed Alteration Agreement 1600-2020-0369-R1.
 - d) The parcel is accessed from Mattole Road. Which is a county-maintained road developed to a Category 4 standard.
 - e) The slope of the land where cannabis will be cultivated is less than 15%
 - f) Power will be provided by a generator and will transition to renewable energy by January 1, 2026.
 - g) 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.

6. FINDING

The commercial 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.

- EVIDENCE**
- a) The site is located on a private road that is developed to the equivalent of a category 4 standard.
 - 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. The site is located adjacent to and behind the Humboldt County Public Works maintenance yard. Approving cultivation on this site will not change the character of the area due to the large parcel sized in the area.

- c) The location of the proposed cannabis cultivation is more than 300 feet from the nearest off-site residence.
- d) Irrigation water is sourced from a point of diversion consistent with a water right and Lake or Streambed Alteration Agreement.
- e) 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

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.

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 in the Lower Eel Planning Watershed, which under Resolution 18-43 is limited to 336 permits and 116 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 81 permits and the total approved acres would be 35.98 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 **Slow and Steady, LLC** subject to the conditions of approval attached hereto as Attachment 1.

Adopted after review and consideration of all the evidence on **November 30, 2023**.

The motion was made by COMMISSIONER Thomas Mulder and second by COMMISSIONER Iver Skavdal and the following VOICE vote:

AYES: COMMISSIONERS: Thomas Mulder, Iver Skavdal, Peggy O'Neill, Noah Levy
Sarah West, Lonyx Landry

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS: Brian Mitchell

ABSTAIN: COMMISSIONERS:

DECISION: Motion Carries 6/0/1

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

Conditions of Approval

APPROVAL OF THE SPECIAL PERMIT IS CONDITIONED ON THE FOLLOWING CONDITIONS AND REQUIREMENTS

- A. Conditions subject to the compliance agreement must be satisfied before the provisional cannabis cultivation permit is no longer considered provisional. This section also includes conditions that must be completed within specified time frames or completed prior to commencing cultivation.**
1. Within 60 days of the effective date of permit approval, the applicant shall execute a Compliance Agreement with the Humboldt County Planning and Building Department described under Conditions of Approval A2 through A3. All activities described in the agreement must be completed to the satisfaction of the Planning and Building Department before the permit may be finalized and no longer considered provisional.
 2. The applicant shall obtain the necessary permits and approvals for the subsurface diversion including a well permit from the Division of Environmental Health. Documentation from the Division of Environmental Health stating a well permit is not required will satisfy this item.
 3. The applicant shall obtain all necessary building permits and grading permits from the Building Inspection Division for all structures related to the commercial cannabis cultivation operation, including drying and processing building, greenhouses, sheds, and grading. The applicant shall submit floor plans including dimensions with electrical, mechanical, and plumbing details for all existing Agriculture Exempt Structures and an Agriculture Exempt letter of intent for each. All building plans submitted for approval shall be consistent with the uses and site plan approved in this Special Permit.
 4. Cultivation activities may be supported by portable toilets. Upon request, proof of the provision of portable toilets shall be provided to the county. Processing will occur offsite at a licensed facility until a permitted building and adequate wastewater system is provided. No processing can occur onsite until the applicant receives approval regarding the location and feasibility of the processing building and septic system. Processing cannot occur onsite until the building and associated wastewater facilities are permitted and constructed.
 5. The applicant will develop an alternative renewable energy plan (i.e., solar, wind, micro-hydro). The renewable energy plan will be implemented no later than January 1, 2026, such that generator use may be reserved for emergency use only. Applicant will provide the alternative renewable energy plan to the county for review and approval no later than January 1, 2024.
 6. Within 90 days of project approval, applicant will provide a copy of a Site Management Plan consistent with the current State Water Board Order.
 7. Within one year of project approval, the pit privy on site shall be decommissioned per the

recommendations of the Division of Environmental Health.

8. Prior to cultivating in 2024 the applicant must provide documentation to the Planning and Building Department and CDFW demonstrating that monthly water log books are being maintained in association with the water meters.
9. Cultivation is limited to one cultivation cycle per year until the permittee has provided documentation demonstrating that water storage has been increased to 55,775 gallons.

B. General Conditions

1. The applicant is required to pay for permit processing on a time and material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Planning and Building Department will provide a bill to the applicant after the decision. All outstanding planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
2. A Notice of Determination (NOD) will be prepared and filed with the County Clerk for this project in accordance with the State CEQA Guidelines. The Department will file the NOD and the applicant is responsible for this cost to the project.
3. The applicant is responsible for costs for post-approval review for determining project conformance with conditions. A deposit is collected to cover this staff review. Permit conformance with conditions must be demonstrated prior to release of building permit or initiation of use and at time of annual inspection. A conformance review deposit as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$750) shall be paid within sixty (60) days of the effective date of the permit or upon filing of the Compliance Agreement (where applicable), whichever occurs first. Payment shall be made to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
4. Within 60 days of project approval, the applicant shall execute and file with the Planning Division the statement titled, "Notice and Acknowledgment regarding Agricultural Activities in Humboldt County," ("Right to Farm" ordinance) as required by the HCC and available at the Planning and Building Department.
5. The applicant shall be compliant with the County of Humboldt's Certified Unified Program Agency (CUPA) requirements regarding hazardous materials. A written verification of compliance shall be required before any provisional permits may be finalized. If applicable, ongoing proof of compliance with this condition shall be required at each annual inspection.
6. The applicant is responsible for obtaining all necessary County and State permits and licenses, and for meeting all requirements set forth by other regulatory agencies.

7. The applicant shall install and utilize a water meter to demonstrate there is sufficient water supply to meet the demands of the project. The water use for cultivation is limited to the use of the existing irrigation infrastructure described in the Operations Plan. The applicant will maintain logs of water usage and make the logs available upon request.

C. Ongoing Requirements/Development Restrictions Which Must be Satisfied for the Life of the Project

1. If cultural resources are encountered during construction activities, the contractor on site shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist and the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and the lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided. Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, ground-stone artifacts, shellfish or faunal remains, and human burials. If human remains are found, California Health and Safety Code 7050.5 requires that the County Coroner be contacted immediately at 707-445-7242. If the Coroner determines the remains to be Native American, the Native American Heritage Commission will then be contacted by the Coroner to determine appropriate treatment of the remains pursuant to Public Resources Code (PRC) Section 5097.98. Violators shall be prosecuted in accordance with PRC Section 5097.99.
2. The combination of background, generator and greenhouse fan or other operational equipment created noise must not result in the harassment of Northern Spotted Owl species as required to meet the performance standards for noise set by Department Policy Statement No. 16-005. The combined noise levels measured at 100 feet or the edge of habitat, whichever is closer, shall be at or below 50 decibels. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service, and further consultation where necessary. A building permit shall be obtained should any structures be necessary for noise attenuation.
3. All artificial lighting shall be fully contained within structures such that no light escapes (e.g., through blackout curtains). Structures shall be enclosed between 30 minutes prior to sunset and 30 minutes after sunrise to prevent disruption to crepuscular wildlife. Security lighting shall be motion activated and comply with the International Dark-Sky Association standards and Fixture Seal of Approval Program. Standards include but are not limited to the following, 1) light shall be shielded and downward facing, 2) shall consist of Low-Pressure Sodium (LPS) light or low spectrum Light Emitting Diodes with a color temperature of 3000 kelvins or less and 3) only placed where needed.
4. Should the Humboldt County Planning Division receive complaints about lighting or noise not complying with the standards listed above in this permit, within ten (10) working days of receiving written notification that a complaint has been filed, the applicant shall submit written verification that the light shielding and alignment, and noise levels have been repaired, inspected, and corrected as necessary.

5. The use of monofilament netting for all uses, including but not limited for erosion control, shall be prohibited. Geotextiles, fiber rolls, and other erosion control measure materials shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves to minimize the risk of ensnaring and strangling wildlife.
6. All refuse shall always be contained in wildlife proof containers and relocated to an authorized waste management facility in compliance with State and local laws, on a regular and on-going basis.
7. Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and be allowed to leave the work site unharmed.
8. The use of anticoagulant rodenticide is prohibited.
9. The operator shall provide information to all employees about the potential health impacts of cannabis use on children. Information shall be provided by posting the brochures from the Department of Health and Human Services titled "Cannabis Palm Card" and "Cannabis Rack Card." This information shall also be provided to all employees as part of the employee orientation.
10. All components of project shall be developed, operated, and maintained in conformance with the Project Description, the approved Site Plan, the Plan of Operations, the CMMLUO, and these conditions of approval.
11. If operating pursuant to a written approved compliance agreement, permittee shall abate or cure violations at the earliest feasible date, but in no event no more than two (2) years from the date of issuance of a provisional clearance or permit. Permittee shall provide plans for curing such violations to the Planning and Building Department within one (1) year of issuance of the provisional clearance or permit. If good faith effort toward compliance can be shown within the two years following the issuance of the provisional clearance or permit, the Department may, at the discretion of the Director, provide for extensions of the provisional permit to allow additional time to meet the outstanding requirements.
12. Compliance with all statutes, regulations, and requirements of the California State Water Resources Control Board and the Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration, as applicable.
13. Confinement of the area of cannabis cultivation, processing, manufacture, or distribution to the locations depicted on the approved site plan. The commercial cannabis activity shall be set back at least 30 feet from any property line, and 600 feet from any school, school bus stop, church or other place of religious worship, or tribal cultural resources, except where a reduction to this setback has been approved pursuant to Section 55.4.11(d).

14. Upon request, applicant shall provide documentation demonstrating that the corrective actions detailed within the Site Management Plan have been completed. A copy of the reporting form portion of the Mitigation and Reporting Program will also be provided upon request.
15. Applicant must demonstrate and maintain enrollment in Tier 1 or 2 in accordance with State Water Resources Control Board Order No. WQ 2019-0001-DWQ, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
16. Comply with the terms of any applicable Lake and Stream Alteration (1600 or 1602) Permit obtained from the California Department of Fish and Wildlife (CDFW).
17. Comply with the terms of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (Cal Fire), if applicable.
18. Consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday through Friday, 9:00 a.m. to 5:00 p.m., excluding holidays).
19. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
20. Pay all applicable application, review for conformance with conditions and annual inspection fees.
21. Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, including the County of Humboldt's Certified Unified Program Agency (CUPA) program, and in such a way that no spillage occurs.
22. The master log books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
23. Pay all applicable taxes as required by the Humboldt County Commercial Marijuana Cultivation Tax Ordinance (Humboldt County Code Section 719-1 et seq.).

Performance Standards for Cultivation and Processing Operations

24. Pursuant to Business and Professions Code section 26051.5(a)(8), an applicant seeking a cultivation license shall "provide a statement declaring the applicant is an 'agricultural employer,' as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law."

25. Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include federal and state wage and hour laws, Cal/OSHA, OSHA, the California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).
26. Cultivators engaged in processing shall comply with the following Processing Practices:
 - a. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
 - b. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
 - c. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
 - d. Employees must wash hands sufficiently when handling cannabis or use gloves.
27. All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
 - a. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
 - (1) Emergency action response planning as necessary;
 - (2) Employee accident reporting and investigation policies;
 - (3) Fire prevention;
 - (4) Hazard communication policies, including maintenance of material safety data sheets (MSDS);
 - (5) Materials handling policies;
 - (6) Job hazard analyses; and
 - (7) Personal protective equipment policies, including respiratory protection.
 - b. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
 - (1) Operation manager contacts;
 - (2) Emergency responder contacts; and
 - (3) Poison control contacts.
 - c. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.
 - d. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.
28. All cultivators shall comply with the approved processing plan as to the following:
 - a. Processing practices
 - b. Location where processing will occur
 - c. Number of employees, if any
 - d. Employee Safety Practices
 - e. Toilet and handwashing facilities

- f. Plumbing and/or septic system and whether or not the system is capable of handling increased usage
- g. Drinking water for employees
- h. Plan to minimize impact from increased road use resulting from processing
- i. On-site housing, if any

29. Term of Commercial Cannabis Activity Permit. Any Commercial Cannabis Cultivation permit issued pursuant to the CMMLUO or CCLUO shall expire one (1) year after date of issuance, and on the anniversary date of such issuance each year thereafter, unless an annual compliance inspection has been conducted and the permittees and the permitted site have been found to comply with all conditions of approval.
30. Inspections. If the inspector or other County official determines that the permittees or site do not comply with the conditions of approval, the inspector shall serve the permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the noncompliance or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a reinspection to determine whether or not the permit holder has cured all issues of noncompliance. Failure to request reinspection or to cure any items of noncompliance shall terminate the Permit, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed.
31. Permit Renewals to Comply with Updated Laws and Regulations. Permit renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that new standards are met.
32. Acknowledgements to Remain in Full Force and Effect. Permittee acknowledges that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this section in the event that environmental conditions, such as a sustained drought or low flows in the watershed in which the cultivation area is located, will not support diversions for irrigation.
33. Transfers. Transfer of any leases or permits approved by this project is subject to the review and approval of the Planning Director for conformance with CMMLUO eligibility requirements and agreement to permit terms and acknowledgments. The fee for required permit transfer review shall accompany the request. The request shall include the following information:
- a. Identifying information for the new owner(s) and management as required in an initial permit application;
 - b. A written acknowledgment by the new owner in accordance as required for the initial permit application;
 - c. The specific date on which the transfer is to occur;

- d. Acknowledgement of full responsibility for complying with the existing permit; and
- e. Execution of an Affidavit of Non-diversion of Medical Cannabis.

34. Inspections. The permit holder and subject property owner are to permit the County or representative(s) or designee(s) to make inspections at any reasonable time deemed necessary to assure that the activities being performed under the authority of this permit are in accordance with the terms and conditions prescribed herein.

Informational Notes:

1. The applicant shall be aware that the federal government considers the cultivation of cannabis to be an illegal activity. This project is accessed by using roads that pass-through lands owned by the Bureau of Land Management. The federal government may not allow the applicant to use these roads to transport cannabis. In such case, Humboldt County will not provide relief to the applicant. Approval of this permit does not authorize transportation of cannabis across federal lands.