

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

Resolution Number 23-

Record Number PLN-11692

Assessor's Parcel Number: 216-081-008

Resolution by the Zoning Administrator of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Full Pardon Farms, LLC Conditional Use Permit and Special Permit.

WHEREAS, Full Pardon Farms, LLC applied for Conditional Use Permit PLN-11692 for 10,000 square feet (SF) of outdoor cannabis cultivation

WHEREAS, the County prepared an Addendum to the Final Mitigated Negative Declaration (MND) 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 Zoning Administrator held a duly-noticed public hearing on August 3, 2023, and reviewed, considered, and discussed the application for the requested Conditional Use Permit and reviewed and considered all evidence and testimony presented at the hearing.

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

- 1. FINDING:** **Project Description:** The application is a Special Permit (PLN-11692) for 10,000 SF of outdoor cannabis cultivation and a Special Permit for work within the Streamside Management Area (SMA) for crossing upgrades, as recommended by the Water Resources Protection Plan (WRPP). The project does not require the use of power. Irrigation water is sourced from one (1) 1,400,000-gallon rainwater catchment pond onsite. Estimated annual water use is 104,000 gallons (10.4 gal/SF). Water is stored in the pond totaling 1,400,000 gallons.

EVIDENCE: a) Project File: PLN-11692-CUP

- 2. FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been met. The Humboldt County Zoning Administrator has considered the 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 and the addendum prepared for this project.

- EVIDENCE:**
- a) Addendum to the MND prepared for the proposed project in compliance with CEQA.
 - 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) A list of potential special status species was generated in June 2022 using the following information systems: California Natural Diversity Database (CDFW 2021), Biogeographic Information and Observation System (BIOS), Northern Spotted Owl Viewer (CDFW 2021), and US Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC). The foothill yellow-legged frog, a state-listed endangered species, is located in two (2) habitat areas approximately 6,000 feet to the north and 11,000 feet to the west of the project area. Project activities are not expected to produce adverse or cumulative effects to any special status species or habitat, due to the small size of the project area, the type of proposed activities, and the distance of the project area from the nearest special status species. Therefore, impacts to biological resources with project are considered low and unlikely, with implementation of the mitigation measures identified in the CMMLUO Mitigated Negative Declaration (MND) adopted on January 26, 2016.
 - d) A Water Resources Protection Plan (WRPP) was prepared in fulfillment of State Water Resources Control Board (SWRCB) General Order WQ 2019-0001-DWQ (WDID No. 1B161473CHUM). The document was prepared to meet the North Coast Regional Water Quality Control Board (NCRWQCB) requirements for Tier 2 discharges of waste resulting from cannabis cultivation. The applicant seeks a Special Permit for work within the Streamside Management Area (SMA) for crossing upgrades, as recommended by the WRPP. There are six (6) stream crossings onsite, four (4) of which require remediation. Crossings at map points (MP) 10, 12, 13, and 14 require the installation of 3-6 inches of rock per the specifications of the WRPP.
 - e) A cultural resources investigation report was prepared by Mark Arsenault, M.A., RPA, and John Flynn of Arsenault & Associates (February 18, 2021). The investigation covered the subject parcel (216-081-008) and an adjacent parcel under the same ownership (216-083-006). No historic or tribal cultural resources were identified as a result of the investigation. The report recommended implementation of the inadvertent discovery protocol. The standard inadvertent discovery protocol will be used to protect artifacts or remains that may be discovered during project work. Consultation letters were sent to Native

American groups associated with the project area. The Bear River Band of the Rohnerville Rancheria expressed concern over the sensitivity of the study area due to its adjacency to a separate project site known to contain culturally sensitive archaeological deposits.

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 Agricultural Grazing (AG) 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) Cultivation areas are not located within any riparian setbacks or streamside management area (SMA). Work on crossings within the SMA is conditioned to meet the requirements of the WRPP.

- 4. FINDING** The proposed development is consistent with the purposes of the existing Agriculture Exclusive (AE) and Special Building Site (B-5[160]) zoning designations in which the site is located.

- EVIDENCE:**
- a) The AE zone is intended to be applied in fertile areas in which agriculture is and should be the desirable predominant use and in which the protection of this use from encroachment from incompatible uses is essential to the general welfare. General agriculture, including the cultivation of cannabis, is a principal permitted use in this zoning district. The B zone is a combining zone intended to be combined with any principal zone in which sound and orderly planning indicate that lot area and yard requirements should be modified.
 - b) Humboldt County Code section 313-106.6 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 a total of 10,000 SF of cannabis cultivation on a 169-acre parcel is consistent with the

Humboldt County Code 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 Agriculture Exclusive (HCC 314-7.1)
 - b) The parcel was created in compliance with all applicable state and local subdivision regulations, as it was created via Patent Certificate 3226 issued to Seldon Benoist 03/01/1877.
 - c) Irrigation water is sourced from one (1) 1,400,000-gallon rainwater catchment pond onsite. Estimated annual water use is 104,000 gallons (10.4 gal/SF). Water is stored in the pond totaling 1,400,000 gallons.
 - d) The slope of the land where cannabis will be cultivated is less than 15%.
 - e) The cultivation of cannabis will not result in additional 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 feet from any property line, more than 300 feet from any offsite residence, and more than 600 feet from any school, church, public park, or Tribal Cultural Resource.

6. FINDING

The cultivation of 10,000 SF of 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) All access roads on the property shall be maintained in compliance with the State Water Resources Control Board Order WQ 2019-0001-DWQ, which states that all access roads are to be hydrologically disconnected to receiving waters. To ensure that roads meet this condition, the applicant shall implement the erosion control measures outlined in the WRPP that address maintenance of rocked fords.
 - 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) The location of the proposed cannabis cultivation is more than 300 feet from the nearest off-site residence.
- d) Irrigation water is sourced from one (1) 1,400,000-gallon rainwater catchment pond onsite. Estimated annual water use is 104,000 gallons (10.4 gal/SF). Water is stored in the pond totaling 1,400,000 gallons.
- e) Provisions have been made in the applicant's proposal to protect water quality through yearly site inspection, monitoring, and reporting to the NCRWQCB (WDID No. 1B161473CHUM). Annual reporting shall be submitted to the NCRWQCB.

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:

The parcel contains no residential units.

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:

The project site lies within the Middle Main Eel River watershed. Currently 102 approved permits for commercial cannabis exist in this watershed, and the approved acreage not including this project is 41.61-acres. If this project gains approval, the number of issued permits will be 103, and the approved acreage will be 41.84-acres. The cap on this watershed is 360 permits and 125 acres.

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 approve the Special Permit (PLN-11692-SP) Full Pardon Farms, LLC based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference; and
- 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 at a meeting held on the date noted above.

John H. Ford, Director
Planning and Building Department