

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

Resolution Number 23-

Record Number PLN-12778-CUP

Assessor's Parcel Numbers: 210-101-011-000

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the NorCal 420 Patient Collective, Inc. Conditional Use Permit.

WHEREAS, NorCal 420 Patient Collective, Inc., submitted an application and evidence in support of approving a Conditional Use Permit for the continued operation of an existing 32,100 square feet (sf) of existing outdoor, light deprivation, mixed light commercial cannabis cultivation, and appurtenant nursery & on-site processing activities; and

WHEREAS, the County Planning Division, the lead agency, prepared an Addendum to the Final 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 4, 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:

FINDING:

Project Description: The application for a Conditional Use Permit for 32,100 square feet existing commercial cannabis cultivation consisting of 22,186 square feet light deprivation, 4,214 outdoor, and 5,700 mixed light. Additionally, 3,210 square feet will be allocated for ancillary nursery space and mother stock propagation. The primary irrigation water source is a diversion from an onsite pond. Current water storage capacity onsite is 74,500; approximately 70,000-gallon pond and two (2) 1,000-gallon tanks, one (1) 2,500-gallon tank, and three (3) 225-gallon tanks. Proposed water storage is 100,000-gallons: twenty 5,000-gallon hard tanks. The anticipated annual irrigation water need is 185,000 gallons (5.24 gallons per square foot) Processing would be performed onsite. Up to nine (9) employees are expected for operations. The power is sourced from two (2) generators; however this project is proposed to be conditioned upon transition to renewable energy.

EVIDENCE: Project File: PLN-12778-CUP

2. FINDING: **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Planning Commission has considered the Addendum to and 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.

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 applicant has enrolled in the State Water Resources Control Board's (SWRCB) General Order for Water Quality No. WQ 2019-001-DWQ. A Notice of Applicability letter was received by the applicant, showing proof of enrollment under WDID-1_12CC436121. The applicant is required to obtain a Site Management Plan and adhere to the recommendations in the Site Management Plan (09/17/2021) prepared for the compliance with the General Order.
- d) The project parcel has two (2) points of diversion (POD1 & POD2) and one (1) groundwater well. POD1 is a concrete cistern placed in a spring and POD2 which is utilized for domestic purposes only and a man-made off-stream pond that is utilized for commercial cannabis irrigation. The applicant is proposing to utilize an existing pond for commercial cannabis irrigation water sources. There is 174,500 gallons water for current and proposed storage and the project is conditioned to develop a total of 210,000 gallons. The applicant has obtained a Streambed Alteration Agreement with the California Department of Fish & Wildlife for the in-stream work needed to upgrade two (2) culverts and replace an existing dirt ford on-site (SAA No. 1600-2016-0343-R1). The applicant shall adhere to the project description and work outlined within the SAA No. 1600-2016-0343-R1.
- e) A Biological Assessment was conducted on June 23, 2021, by O'Brien Biological Consulting. The project is located approximately 0.54 miles to the nearest known Northern Spotted Owl (NSO) activity center. The nearest critical habitat for NSO is approximately 2.14 miles from the nearest cultivation site. The assessment suggested a strong likelihood that no significant impacts from the commercial cannabis cultivation would result to NSO nesting habitat. The assessment suggested a strong likelihood that no significant impacts from the commercial cannabis cultivation would result to NSO nesting habitat and the project is conditioned to follow the mitigation recommendations of the

assessment. The project was referred to CDFW on January 9, 2023, and no comments were received. The applicant is required to comply with International Dark Sky Standards, and shall ensure that all noise levels do not go above 50 decibels at 100-feet or any tree line when noise generating equipment are in use.

- f) A Timber Restocking Plan by Timber Resource Consultants, dated January 18, 2019, was developed for the project due to the previous removal of timber from two (2) areas, each approximately 0.30 acres in size. The Registered Professional Forester (RPF) recommends restocking with Douglas-fir with a minimum of 130 seedlings. Per the conditions of approval, the applicant shall adhere to the recommendations of the RPF. No further timber removal is proposed.
- g) The project site is located within the Bear River Band of Rohnerville Rancheria Aboriginal Ancestral Territories. The applicant has submitted a Cultural Resource Investigation prepared by Archaeological Research and Supply Co., dated April 2019. A comprehensive field survey was conducted in February of 2019. The project was referred to the Bear River Band of Rohnerville Rancheria and the Northwest Information Center (NWIC). The project is not anticipated to impact any tribal cultural resources; however, the applicant will be required to adhere to the inadvertent discovery protocol.
- h) Access to the project site is from State highway 36 Road, by way of a non-County maintained Road. project was referred to the Department of Public Works on January 9, 2023, and comments were received by the agency on January 12, 2023. Comments from Public Works stated that any recommendations in the Road Evaluation Report(s) for non-County maintained road(s) and shall be constructed/implemented to the satisfaction of CalTrans and the Planning & Building Department prior to commencing operations, final sign-off for a building permit, or approval for a business license. The operations are pre-existing, and no increase in traffic is anticipated.

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) The proposed project is not planned or zoned as open space, does not have a combining zone that would be considered open space.

4. FINDING The proposed development is consistent with the purposes of the existing U zone in which the site is located.

- EVIDENCE**
- a) The Unclassified or U Zone is intended to be applied to areas of the County in which general agriculture uses is a desirable use.
 - 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 43,560 square feet of existing outdoor cannabis and up to 22,000 sq. ft. of existing mixed-light cannabis on a parcel zoned U over 1 acres 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 32,100 sq. ft. of outdoor cultivation on a 52-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 subject parcel has been determined to be a legal parcel created by deed recorded September 30, 1944, Book 269, Page 233 of Deeds Records of Humboldt County, California.
 - c) The project will obtain water from a man-made off-stream pond that is utilized for commercial cannabis irrigation. The applicant has obtained a final Streambed Alteration Agreement with the California Department of Fish & Wildlife for the in-stream work needed to upgrade two (2) culverts and replace an existing dirt ford on-site (SAA No. 1600-2016-0343-R1). The applicant shall adhere to the project description and work outlined within the SAA.
 - d) Access to the project site is from State highway 36 Road, by way of a non-County maintained Road. project was referred to the Department of Public Works on January 9, 2023, and comments were received by the agency on January 12, 2023. Comments from Public Works stated that any recommendations in the Road Evaluation Report(s) for non-County maintained road(s) and shall be constructed/implemented to the satisfaction of the Planning & Building Department prior to commencing operations, final sign-off for a building permit, or approval for a business license. The operations are pre-existing, and no increase in traffic is anticipated.
 - e) A Timber Restocking Plan by Timber Resource Consultants, dated January 18, 2019, was developed for the project due to the previous removal of timber from two (2) areas, each approximately 0.30 acres in

size. The logged areas were not for cannabis cultivation. The Registered Professional Forester (RPF) recommends restocking with Douglas-fir with a minimum of 130 seedlings. Per the conditions of approval, the applicant shall adhere to the recommendations of the RPF. No further timber removal is proposed.

- 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, and more than 600 feet from any school, school bus stop, church or other place of religious worship, Public Park or Tribal Cultural Resource.

6. FINDING

The cultivation of 32,100 square feet 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.

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 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 sized in the area.
- b) The project will obtain water from a man-made off-stream pond that is utilized for commercial cannabis irrigation. The applicant has obtained a final Streambed Alteration Agreement with the California Department of Fish & Wildlife for the in-stream work needed to upgrade two (2) culverts and replace an existing dirt ford on-site (SAA No. 1600-2016-0343-R1). The applicant shall adhere to the project description and work outlined within the SAA.
- c) The parcel is located in an area known to have a Very High Fire Hazard Severity, and is within the Bridgeville Fire Protection District for local fire response. The parcel is also located within the State Responsibility Area (SRA) where Cal Fire is the primary emergency response agency responsible for fire suppression and prevention. The project was referred to Cal Fire on April 6, 2023. CalFire responded to the referral on April 6, 2023, and stated that they had no comments regarding the project at that time. The Site Plan shows an emergency vehicle turnaround, and the applicant is required to have a minimum of 2,500 gallons of water storage specifically designated for fire suppression. The designated fire suppression tank shall also have the appropriate fire hose that meets CalFire SRA requirements.
- d) Access to the project site is from State highway 36 Road, by way of a

non-County maintained Road. project was referred to the Department of Public Works on January 9, 2023, and comments were received by the agency on January 12, 2023. Comments from Public Works stated that any recommendations in the Road Evaluation Report(s) for non-County maintained road(s) and shall be constructed/implemented to the satisfaction of the Planning & Building Department prior to commencing operations, final sign-off for a building permit, or approval for a business license. The operations are pre-existing, and no increase in traffic is anticipated.

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 located in the Van Duzen Planning Watershed, which under Resolution 18-43 is limited to 425 permits and 146 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 158 cultivation permits and the total approved acres would be 42.3 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 NorCal 420 Patient Collective Inc., 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 **May 4, 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