

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

Resolution Number: 24-

Record Number PLN-2024-19013

Assessor's Parcel Number: 210-072-009-000

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Muzzy Conditional Use Permit Modification.

WHEREAS, the Humboldt County Planning Commission held a duly-noticed public hearing on July 6, 2023, and approved a Conditional Use Permit for existing cannabis cultivation (PLN-12468-CUP); and

WHEREAS, Laura Muzzy submitted an application and evidence in support of approving a modification to the Conditional Use Permit for the addition of a hydrologically disconnected well and an increase in the water demand to support the approved cannabis cultivation permit; and

WHEREAS, on November 07, 2024, the Humboldt County Planning Commission continued the project's review, consideration, and discussion of the application for the Conditional Use Permit Modification to the November 21, 2024, meeting.

WHEREAS, the Humboldt County Planning Commission held a duly-noticed public hearing on November 21, 2024, and reviewed, considered, and discussed the application for the Conditional Use Permit Modification, 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 modification to Conditional Use Permit PLN-12648-CUP to add a well as an additional water source for the project and increase the amount of water used for irrigation annually from 200,000 gallons to 759,480 gallons. The well is on the project parcel and likely to be hydrologically disconnected from surface waters.

EVIDENCE: a) Project Files: PLN-2024-19013 and PLN-12468-CUP

2. FINDING: **CEQA.** The requirements of the California Environmental Quality Act have been met. The Humboldt County Planning Commission 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 to that document.

- EVIDENCE:**
- a) The applicant proposes to add a well as a new water source to support the existing project. Adding the well does not pose a risk of potential impacts to any of the resource categories regulated by CEQA. Notably, according to a hydrogeologic assessment of the well prepared by Lindberg Geologic Consulting, the proposed well is likely to be hydrologically disconnected from surface waters due to its depth and location relative to surface waters. Additionally, the volume of water to be drawn from the well will not substantially decrease groundwater supplies, and the use of the well will not generally impact the site's hydrology or water quality in any adverse way.
 - b) The original permit (PLN-12468-CUP) described the existing pond as 345,000 gallons- approximately 169,591 gallons smaller than how the pond is described in this application. Aerial photography doesn't suggest any change in the diameter of the pond, and the applicant hypothesized the original application did not accurately calculate the volume of the pond. They do intend to use the whole volume of the pond to irrigate the cultivation and Humboldt County Planning Staff is confident the 514,591-gallon figure is accurate.
 - c) The discussion about all other resource categories identified in the original project's addendum is unchanged and unaffected by the modification.

CONDITIONAL USE PERMIT MODIFICATION FINDINGS

3. FINDING: The proposed development is in conformance with the County General Plan, Open Space Plan, and the Open Space Action Program (CO-IM5).

EVIDENCE: a) General agriculture is a use type permitted in the Timberland (T) and Agriculture General (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.

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

EVIDENCE: a) The Timberland Production Zone (TPZ) and Agriculture Exclusive (AE) Zone is intended to be applied to areas of the County in which general agriculture uses are a desirable use.
b) All general agricultural uses are principally permitted in the TPZ and AE zone.

5. FINDING: The proposed development conforms with all applicable standards and requirements of these regulations.

EVIDENCE: a) The application for the modification to the approved Conditional Use Permit is enabled by HCC Section 11.2, Application for Modification of a Development Permit or Variance.
b) The original project was approved pursuant to the CMMLUO and the modification is regulated in kind and is consistent with the CMMLUO's performance standards for water sources supporting cannabis cultivation.
c) The well is not likely to be hydrologically connected to any surface waters and is therefore a non-diversionary water source.
d) The well site is outside of the streamside management areas of all drainages on the parcel.
e) The project as modified meets all setback requirements for the TPZ and AE zones.

6. FINDING: The Project and the conditions under which it may be operated or maintained will not be detrimental to the public's health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

EVIDENCE: a) The new well site is approximately 2,580 feet above sea level (Figure 1). Fisch Drilling (August 3, 2023) proposed a 210-foot deep well completed with ~8-inch PVC casing and well screen. Based on the review of other water supply wells in the section, it is expected that the new well will be completed below a depth of 100 feet. This well is not in a location where it could impair the public rights to navigation, fisheries, or water related activities or access.

b) The original permit (PLN-12468-CUP) described the existing pond as 345,000 gallons- approximately 169,591 gallons smaller than how the pond is described in this application. Aerial photography doesn't suggest any change in the diameter of the pond, and the applicant hypothesized the original application did not accurately calculate the volume of the pond. They do intend to use the whole volume of the pond to irrigate the cultivation and Humboldt County Planning Staff is confident the 514,591-gallon figure is accurate. Since there is no change in the actual size of the pond, there is no new risk of impacts to properties and improvements in the vicinity.

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 is currently developed with an existing single-family residence but the parcel is not part of the adopted 2019 Housing Inventory. The house will not be demolished or decommissioned as an element of this project.

8. FINDING: The use of the well is unlikely to have any adverse impacts on public trust resources.

EVIDENCE:

- a) The well does not appear to be hydrologically connected to any surface waters. The applicant submitted a Well Hydrologic Connectivity study prepared by David Lindberg (**Attachment 4A**) a certified engineering geologist. Based on their observations, research, and professional experience, the new well has a low likelihood of being hydrologically connected to nearby surface waters, springs, wetlands, or wells in a manner that might significantly have a negative impact or effect on such surface waters, springs, wetlands, or wells. Given the lack of any connection to surface waters, the use of the well is unlikely to have any adverse impacts on public trust resources.

- b) The existing project is located in the Butte Creek Subwatershed, an impacted watershed according to Resolution No. 18-43. Resolution 18-43 temporarily restricted permits for new Open Air Cultivation Activities Indoor Cultivation Activities or expansion of lawful pre-existing sites within these subwatersheds until all known pre-existing cultivation have either been suspended, permitted, or are under a compliance agreement. Although no expansion is proposed and the well has been determined to be nondiversionary, it may be pertinent to be aware that the request for the increased water demand is within the boundaries of an impacted watershed. It should be noted that the parcel is large, assessed at 269.50 acres.

A research study published by the USGS (Flint, 2013) indicates that approximately 34% of precipitation in Northern California percolates into groundwater recharge and that the mean annual precipitation is 57.7 inches per year, meaning that 19.8 inches, or 1.65 acre-feet (also expressed as 530,000 gallons of water) of recharge per acre of ground area per year is available in a typical year. During a drought year, where as little as 1/3 of the average rainfall is recorded, at least 175,000 gallons of water is recharged into the groundwater per acre of ground area. The project site is a 269.50 acre parcel which would have as much as 47 million gallons of groundwater recharge from rainfall even in a substantial drought year.

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 Modification for Laura Muzzy subject to the conditions of approval attached hereto as Attachment 1.

Adopted after review and consideration of all the evidence on **November 21, 2024**.

The motion was made by COMMISSIONER _____ and second by COMMISSIONER _____ and the following vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSENT: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
DECISION:

I, John H. 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 H. Ford, Director
Planning and Building Department