

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

Resolution Number: 22-

Record Number: PLN-11051-CUP

Assessor's Parcel Number: 220-272-003

Resolution by the Zoning Administrator of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Steven Jones Special Permit request.

WHEREAS, Steven Jones submitted an application and evidence in support of approving a Special Permit for the continued operation of 9,600 square feet (SF) of existing cannabis cultivation (4,200 SF outdoor and 5,400 SF mixed light) and 960 SF of ancillary propagation. Irrigation water is sourced from a groundwater well. Existing available water storage is 48,500 gallons in a series of hard-sided tanks. Estimated annual water usage is 60,000 gallons. Drying, curing, and processing occurs onsite. A maximum of five (5) people may be utilized during peak operations. Power is provided by solar, with two (2) propane generators utilized for back-up; and

WHEREAS, the County Planning Division, the lead agency, prepared an Addendum to the Final 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. 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 Zoning Administrator held a duly-noticed public hearing on November 3, 2022, and reviewed, considered, and discussed the application for a Special 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:

FINDING: **Project Description:** The application is a Special Permit for the continued operation of 9,600 square feet (SF) of existing cannabis cultivation (4,200 SF outdoor and 5,400 SF mixed light) and 960 SF of ancillary propagation. Irrigation water is sourced from a groundwater well. Existing available water storage is 48,500 gallons in a series of hard-sided tanks. Estimated annual water usage is 60,000 gallons. Drying, curing, and processing occurs onsite. A maximum of five (5) people may be utilized during peak operations. Power is provided by solar, with two (2) propane generators utilized for back-up.

EVIDENCE: Project File: PLN-11051-CUP

2. FINDING: **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Zoning Administrator 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) A Water Resource Protection Plan (WRPP; WDID 1B170267CHUM) was prepared for the subject site by the applicant in May 2018 in compliance with the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R1-2015-0023, and a Notice of Applicability was submitted by the applicant to show compliance with the State Water Board Cannabis General Order for Waste Discharge in compliance with the State Water Resources Control Board (SWRCB) Cannabis General Order. Conditions of approval require the applicant to comply with the State Water Resources Control Board Cannabis Cultivation Policy, which includes development and implementation of a Site Management Plan, and maintain enrollment in the State Cannabis Cultivation Policy for the life of the project.
- d) Per review of CDFW's California Natural Diversity Database (CNDDDB) in September 2022, there are no mapped sensitive species onsite and the nearest Northern Spotted Owl (NSO) activity center is located approximately 0.81 miles from the nearest cultivation area, with the nearest NSO sighting located approximately 0.48 miles away. Artificial lighting is utilized within the mixed light and propagation areas. Power for the project is currently provided by solar, a renewable source, with two (2) propane generators utilized for back-up only.

The project is conditioned such that combined noise generated from generators shall not exceed 50 decibels (dB) at 100 feet from the generator or at the edge of the nearest forest habitat, whichever is closer, as required by Section 314-55.4.11(o) Humboldt County Code. Furthermore, the project is conditioned to adhere to International Dark Sky Standards for any supplemental lighting used for cultivation, security, or within the nursery area, refrain from using synthetic netting, ensure refuse is contained in wildlife-proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife. As proposed and conditioned, the project is consistent with CMMLUO performance and will not negatively impact NSO or other sensitive species.

- e) The cultivation of cannabis will not result in the net conversion of timberland. Review of aerial imagery dating back to 2005 indicates the site contained two structures (residence and outbuilding) and a small open area adjacent to Eld Ridge Road within the northwestern portion of the property at this time, with timber conversion occurring within the central portion of the property between 2014 and 2016. It appears the eastern area may have been further expanded between 2016 and 2018 and between 2018 and 2020, with additional expansion near the residence appearing to have occurred between 2020 and 2022, after the CMMLUO environmental baseline date of January 1, 2016.

A Timber Conversion Evaluation was prepared by Timberland Resource Consultants in May 2018 to assess potential timberland conversion on the subject property. As noted in the Report, 0.76 acres of timberland conversion occurred onsite, which is under the three-acre conversion exemption maximum related to the cultivation site (0.50 acres) and the home site (0.26 acres). Aerial imagery indicated "the cultivation site was established between 2014 and 2016 and included extensive timber harvesting within 200+ feet of the graded site to the south and east." Timber harvesting the occurred to the south and east of the cultivation site is approximately 1.5-2 acres in size, and no cutting, filling, or grading occurred. During the inspection, conifer and hardwood natural regeneration was occurring throughout the cleared areas below the cultivation site. At the present rate of natural succession, the area is expected to meet the stocking standards of 14 CCR 912.7 of the Forest Practice Rules within several years. At the home site, defensible space was cleared around the residence between 2014 and 2016, concurrent with development of the cultivation site. A majority of the slash and woody debris has been chipped and treated at both sites, although several small log decks remain, which are recommended for treatment to bring the conversion activities into compliance with the California Forest Practice Act and the California Forest Practice Rules. A condition of approval is recommended to require all remaining treatment measures identified in the Timber Conversion Evaluation be implemented by the applicant

In addition, since additional timber conversion appears to have occurred onsite after preparation of the Timber Conversion Evaluation and post-2016, the project is conditioned to require the property be evaluated by a RPF to determine the amount of timber conversion that occurred prior to and after the CMMLUO baseline date of January 1, 2016. The applicant/owner will be responsible for mitigating the environmental impacts not analyzed in the environmental document prepared for the CMMLUO. The applicant/owner shall be required to re-stock an area onsite equivalent to the amount of area converted after the CMMLUO baseline date at a rate of 3:1. Additionally, the project is conditioned to require preparation of a Restocking Plan within 90 days of project approval and implement the Restocking Plan within a period of two (2) years, should any timber conversion be determined to have occurred after the CMMLUO baseline date. The Restocking Plan shall include details on the locations and total areas to be restocked, the type, number, and spacing of the plantings, and a monitoring plan for three (3) years which includes performance evaluations, performance standards, and contingency measures should performance standards not be met. The Report shall include monitoring and reporting requiring a minimum of 3 years of monitoring at an 85% success rate and submission of annual monitoring reports at the time of the annual inspection.

No additional tree removal is proposed or authorized by this permit.

- f) The Cultural Resources referral process carried out by staff concluded that the proposed project will not result in any adverse changes to

historical or archaeological resources and recommended Inadvertent Discoveries Protocol, which was also recommended by the Bear River Band of the Rohnerville Rancheria in September 2021.

- g) A Road Evaluation Report for an approximately 1.8-mile segment of Perry Road (assumed to be Perry Meadow Lane), from Briceland Road (assumed to be Briceland Thorne Road) to Elk Ridge Road, was prepared by the applicant in July 2018, which indicates that the roadway meets a Category 4 road equivalent standard and is suitable for safe access to and from the project site. The project is conditioned to maintain all driveways and private road intersections onto the County road in accordance with the County's Sight Visibility Ordinance (County Code §341-1), ensure all fences and gates are located outside of the County right of way, and maintain enrollment in the Road Maintenance Association and pay fair-share cost for maintenance of Perry Meadow Lane and Elk Ridge Road to any road user engaged in maintaining the roads.

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 existing Forestry Recreation (FR) zone in which the site is located.

EVIDENCE a) The Forestry Recreation Zone or FR Zone is intended to be applied to forested areas of the County in which timber production and recreation are the desirable predominant uses and agriculture is the secondary use, and in which protection of the timber and recreational lands is essential to the general welfare.

b) All general agricultural uses are principally permitted in the FR zone.

c) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 10,000 square feet of existing outdoor cannabis and up to 10,000 square feet of existing mixed-light cannabis on a parcel over 1 acre subject to approval of a Special Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for 9,600 square feet of outdoor and mixed light cultivation on a 43.07-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 FR (HCC 314-55.4.8.2.2).
- b) The parcel was created in compliance with all applicable state and local subdivision regulations, as it was created in its current configuration as described in Creation Deed 1910-073464, recorded January 22, 1971.

Water for irrigation is provided by groundwater well. A Hydrological Report was prepared by Lindberg Geologic Consulting in August 2022 to assess the well's potential for hydrologic connectivity with any adjacent wetlands or surface waters and its potential to affect surface waters in nearby watercourses. The well is noted to be located approximately 710 feet from the nearest mapped surface waters and at least 1,250 feet southeast of the nearest mapped spring. When considered with the stratigraphy and geologic structure, distances (horizontal and vertically) from the nearest surface waters, depth of the producing zone of this well (~72 feet), as well as its position relative to the nearest adjacent watercourses in Buck Gulch and Miller Creek, it is concluded in the Report that the location and depth of this well is sufficient to preclude the potential for any hydraulic connectivity with surface waters, of which there are none closer than 1,520 feet on the southwest facing flank of Elk Ridge. Thus, the aquifer from which this well draws appears to be a confined subsurface aquifer not hydrologically connected to any surface waters or near-surface aquifer(s). Additionally, the well appears likely to be hydraulically isolated from nearby wells, surface waters, springs, or wetlands, and pumping the subject well should not affect nearby wells, surface waters, springs, or wetlands. Further, it appears that the aquifer tapped by the subject well is recharged by water infiltrating from source areas proximal to, and upslope from, the well site. As the well is found to not be hydrologically connected to surface waters, use of the well is not subject to forbearance requirements. Conditions of approval also require the applicant to monitor water use from the well and water storage tanks annually to demonstrate there is sufficient water available to meet operational needs.

Additionally, per referral comments received from the Department of Environmental Health (DEH) in October 2021, DEH is requiring the applicant provide evidence of an approved permit, destroy the well, legalize the well through installation of a new sanitary surface seal, or provide compelling evidence that the well was installed prior to February 1973, which has been included as a condition of approval. In addition, the conditions of approval require onsite well shall also be registered with the California Department of Water Resources.

- d) A Road Evaluation Report for an approximately 1.8-mile segment of Perry Road (assumed to be Perry Meadow Lane), from Briceland Road (assumed to be Briceland Thorne Road) to Elk Ridge Road, was prepared by the applicant in July 2018, which indicates that the roadway meets a Category 4 road equivalent standard and is

functionally appropriate for the expected traffic. The project is conditioned to maintain all driveways and private road intersections onto the County road in accordance with the County's Sight Visibility Ordinance (County Code §341-1), ensure all fences and gates are located outside of the County right of way, and maintain enrollment in the Road Maintenance Association and pay fair-share cost for maintenance of Perry Meadow Lane and Elk Ridge Road to any road user engaged in maintaining the roads.

- e) The slope of the land where cannabis will be cultivated is less than 30%, as indicated by the Humboldt County WebGIS portal, which show natural slopes range from less than 15% to 30% in the area where cultivation occurs on the subject property.
- f) The cultivation of cannabis will not result in the net conversion of timberland. Review of aerial imagery dating back to 2005 indicates the site contained two structures (residence and outbuilding) and a small open area adjacent to Eld Ridge Road within the northwestern portion of the property at this time, with timber conversion occurring within the central portion of the property between 2014 and 2016. It appears the eastern area may have been further expanded between 2016 and 2018 and between 2018 and 2020, with additional expansion near the residence appearing to have occurred between 2020 and 2022, after the CMMLUO environmental baseline date of January 1, 2016.

A Timber Conversion Evaluation was prepared by Timberland Resource Consultants in May 2018 to assess potential timberland conversion on the subject property. As noted in the Report, 0.76 acres of timberland conversion occurred onsite, which is under the three-acre conversion exemption maximum related to the cultivation site (0.50 acres) and the home site (0.26 acres). Aerial imagery indicated "the cultivation site was established between 2014 and 2016 and included extensive timber harvesting within 200+ feet of the graded site to the south and east." Timber harvesting the occurred to the south and east of the cultivation site is approximately 1.5-2 acres in size, and no cutting, filling, or grading occurred. During the inspection, conifer and hardwood natural regeneration was occurring throughout the cleared areas below the cultivation site. At the present rate of natural succession, the area is expected to meet the stocking standards of 14 CCR 912.7 of the Forest Practice Rules within several years. At the home site, defensible space was cleared around the residence between 2014 and 2016, concurrent with development of the cultivation site. A majority of the slash and woody debris has been chipped and treated at both sites, although several small log decks remain, which are recommended for treatment to bring the conversion activities into compliance with the California Forest Practice Act and the California Forest Practice Rules. A condition of approval is recommended to require all remaining treatment measures identified in the Timber Conversion Evaluation be implemented by the applicant

In addition, since additional timber conversion appears to have occurred onsite after preparation of the Timber Conversion Evaluation and post-2016, the project is conditioned to require the property be

evaluated by a RPF to determine the amount of timber conversion that occurred prior to and after the CMMLUO baseline date of January 1, 2016. The applicant/owner will be responsible for mitigating the environmental impacts not analyzed in the environmental document prepared for the CMMLUO. The applicant/owner shall be required to re-stock an area onsite equivalent to the amount of area converted after the CMMLUO baseline date at a rate of 3:1. Additionally, the project is conditioned to require preparation of a Restocking Plan within 90 days of project approval and implement the Restocking Plan within a period of two (2) years, should any timber conversion be determined to have occurred after the CMMLUO baseline date. The Restocking Plan shall include details on the locations and total areas to be restocked, the type, number, and spacing of the plantings, and a monitoring plan for three (3) years which includes performance evaluations, performance standards, and contingency measures should performance standards not be met. The Report shall include monitoring and reporting requiring a minimum of 3 years of monitoring at an 85% success rate and submission of annual monitoring reports at the time of the annual inspection.

No additional tree removal is proposed or authorized by this permit.

- g) 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 off-site residence, and more than 600 feet from any school, church, public park or Tribal Cultural Resource.

6. FINDING

The cultivation of 9,600 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.

EVIDENCE

- a) The site is located on road that has been certified to safely accommodate the amount of traffic generated by the proposed cannabis cultivation. The project is conditioned require all driveways and private road intersections onto the County road be maintained in accordance with the County's Sight Visibility Ordinance (County Code §341-1), ensure all fences and gates are relocated out of the County right of way, and maintain enrollment in the Road Maintenance Association and pay fair-share cost for maintenance of Perry Meadow Lane and Elk Ridge Road to any road user engaged in maintaining the roads.
- b) The site is in a rural part of the County where the typical parcel size is over 20 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.
- c) The location of the proposed cannabis cultivation is more than 300 feet from the nearest off-site residence.

- d) Irrigation water is derived from a groundwater well. A Hydrological Report was prepared by Lindberg Geologic Consulting in August 2022 to assess the well's potential for hydrologic connectivity with any adjacent wetlands or surface waters and its potential to affect surface waters in nearby watercourses. As the well is found to not be hydrologically connected to surface waters, use of the well is not subject to forbearance requirements. Conditions of approval require the applicant to monitor water use from the well and water storage tanks annually to demonstrate there is sufficient water available to meet operational needs.

Additionally, per referral comments received from the Department of Environmental Health (DEH) in October 2021, DEH is requiring the applicant provide evidence of an approved permit, destroy the well, legalize the well through installation of a new sanitary surface seal, or provide compelling evidence that the well was installed prior to February 1973, which has been included as a condition of approval. In addition, the conditions of approval require onsite well shall also be registered with the California Department of Water Resources.

- 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 is currently developed with an existing residence (although not shown on the current Site Plan). The approval of cannabis cultivation on this parcel will not conflict with the ability for the existing residence to continue to be utilized as such 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

The project site is located in South Fork Eel Planning Watershed, which under Resolution 18-43 is limited to 730 permits and 251 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 298 permits and the total approved acres would be 83.18 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 Special Permit for Steven Jones, 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 **November 3, 2022**.

I, John 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 Zoning Administrator at a meeting held on the date noted above.

John H. Ford Zoning Administrator,
Planning and Building Department