

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

Resolution Number 23-

Record Number PLN-12072-CUP

Assessor's Parcel Numbers: 220-082-020

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Healing Sun, LLC, Conditional Use Permit.

WHEREAS, Healing Sun, LLC, submitted an application and evidence in support of approving a Conditional Use Permit for the continued operation of an existing 16,800 square feet (sf) of outdoor cultivation, and appurtenant nursery & drying 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 April 20, 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 is a Conditional Use Permit for 16,800 square feet (SF) of existing outdoor commercial cannabis cultivation, with 1,900 SF of ancillary propagation. Two harvests are anticipated annually. Water for irrigation is sourced from an existing permitted well (permit# 18/19-1012). The projected annual water usage totals 280,000 gallons (15 gallons/SF/year) and water storage on-site totals 76,800 gallons in hard sided storage tanks. Processing and trimming will occur on-site in an existing building. Power is provided by a 12.5 kW solar array.

EVIDENCE: Project File: PLN-12072-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 is proposing to utilize an existing permitted well (Permit #18/19-1012) for water source. The applicant has obtained a Well Assessment Report for the well prepared by licensed geologist David Lindberg, dated July 25, 2022, which found that the well has a low likelihood of being hydrologically connected to nearby surface waters in any manner that could affect adjacent springs, wetlands and or surface waters near the subject well.
 - d) 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, dated September 6, 2019, showing proof of enrollment under WDID 1_12CC418402. The applicant is required to obtain a Site Management Plan and adhere to the recommendations in the Site Management Plan prepared for the sites compliance with the General Order.
 - e) The applicant has obtained a Streambed Alteration Agreement with the California Department of Fish & Wildlife for the in-stream work needed to upgrade five (5) culverts on-site (SAA No. 1600-2019-0160-R1). The applicant shall adhere to the project description and work outlined within the SAA No. 1600-2019-0160-R1.
 - f) The project is located approximately 1.2 miles to the nearest known Northern Spotted Owl (NSO) activity center. According to the California Natural Diversity Database (CNDDB) for rare and endangered species, the project site does not contain potential habitat areas for any rare or endangered species. As the project is for pre-existing activities, and no new ground disturbance is proposed, no Biological Assessment was required. The project was referred to CDFW on December 11, 202, 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-foot or any tree line when noise generating equipment are in use.
 - g) No timber conversion has occurred on the site and none is proposed.
 - h) The project site is located within the Bear River Band and Sinkyone Aboriginal Ancestral Territories. The project was referred to the Bear

River Band of Rohnerville Rancheria, Intertribal Sinkyone Wilderness Council and the Northwest Information Center (NWIC) on September 20, 2017, and to the Tsnungwe Council on March 12, 2019. Comments were received from the Bear River Band requesting a survey for the site. The applicant has submitted a Cultural Resource Investigation prepared by William Rich and Associates dated November 2021. A comprehensive field survey was conducted on October 6, 2021. No tribal cultural resources were identified in the assessment area. The project is not anticipated to impact any tribal cultural resources; however, the applicant will be required to adhere to the inadvertent discovery protocol.

- i) Access to the project site is from 0.7 miles of privately maintained Eubanks Road, from County maintained Ettersburg Honeydew Road, from county maintained Briceland-Thorne Road. The project was referred to the Department of Public Works on December 11, 2020, and comments were received by the agency on December 28, 2020. Comments from Public Works stated that the intersection of Eubanks Road and County maintained Ettersburg Honeydew Road has been improved, and recommends that the applicant contact and join the road maintenance association. The site will be operated by family members who live on the site. 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 16,800 sq. ft. of outdoor cultivation on a 65-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 per Notice of Merger and Certificate of Subdivision Compliance 2023-003051.
- c) The project will obtain water from a permitted well (Permit #18/19-1012). The applicant has obtained a Well Assessment Report for the well prepared by licensed geologist David Lindberg, dated July 25, 2022, which found that the well has a low likelihood of being hydrologically connected to nearby surface waters in any manner that could affect adjacent springs, wetlands and or surface waters near the subject well.
- d) Access to the project site is from 0.7 miles of privately maintained Eubanks Road, from County maintained Ettersburg Honeydew Road, from county maintained Briceland-Thorne Road. The project was referred to the Department of Public Works on December 11, 2020, and comments were received by the agency on December 28, 2020. Comments from Public Works stated that the intersection of Eubanks Road and County maintained Ettersburg Honeydew Road has been improved, and recommends that the applicant contact and join the road maintenance association. The site will be operated by family members who live on the site. The operations are pre-existing, and no increase in traffic is anticipated.
- e) No timber conversion has occurred on the site and none 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 16,800 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) Irrigation water will come from a permitted groundwater well (Permit #18/19-1012).
- c) The project site is in an area known to have High Fire Hazard Severity, and is within the Telegraph Ridge Fire Protection District for local fire response. The project is also located within the State Responsibility Area (SRA) for CalFire, and was referred to the agency on December 11, 2020. Comments were received by CalFire on December 17, 2020, and the agency stated that they had no comments regarding the project at that time. The Site Plan shows a firetruck turnaround, and the applicant is required to have a minimum of 2,500 gallons of water storage designated for fire suppression needs only. 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 0.7 miles of privately maintained Eubanks Road, from County maintained Ettersburg Honeydew Road, from county maintained Briceland-Thorne Road. The project was referred to the Department of Public Works on December 11, 2020, and comments were received by the agency on December 28, 2020. Comments from Public Works stated that the intersection of Eubanks Road and County maintained Ettersburg Honeydew Road has been improved, and recommends that the applicant contact and join the road maintenance association. The site will be operated by family members who live on the site. 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 Cape Mendocino Planning Watershed, which under Resolution 18-43 is limited to 650 permits and 223 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 233 cultivation permits and the total approved acres would be 81.8 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 Healing Sun, 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 **April 20, 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