

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

Resolution Number: 25-

Record Number: PLN-12533-SP

Assessor's Parcel Numbers: 221-071-042 & 221-071-045

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

WHEREAS, Birds of Paradise Farms, LLC submitted an application and evidence in support of approving a Special Permit for the continued operation of an existing 9,960 square foot (SF) outdoor commercial cannabis cultivation with 512 SF of ancillary propagation and a Special Permit for encroachment in a Streamside Management Area for the use and maintenance of a micro-hydro system on APN 221-071-045; and

WHEREAS, the lead agency prepared an Addendum to the 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, and the Zoning Administrator considered the Addendum and the MND. 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 February 6, 2025, and reviewed, considered, and discussed the application for Special Permits, 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:** A Special Permit for 9,960 square feet (SF) of existing outdoor commercial cannabis cultivation supported by a 512 SF ancillary propagation greenhouse. Water is sourced exclusively from rainwater catchment, captured and stored in three onsite ponds. The total storage capacity of the three ponds is approximately 640,000 gallons and there is 8,000 gallons of storage available in tanks. The annual estimated water budget is 112,275 gallons, or 11.27 gallons per square foot per year. Processing will occur onsite in an existing 900 SF building or will occur offsite at a licensed facility. Power is provided by a photovoltaic system and micro-hydro system, with a 25-kilowatt (kW) generator utilized only

for emergency backup. The applicant proposes a maximum of six employees in addition to the applicant themselves and their spouse.

EVIDENCE: a) Project File: PLN-12533-SP

2. FINDING: **CEQA.** The project complies with the requirements of the California Environmental Quality Act. The Humboldt County Zoning Administrator has considered the Mitigated Negative Declaration previously adopted for the Commercial Medical Marijuana Land Use Ordinance as well as the Addendum to the Mitigated Negative Declaration that was prepared for the project pursuant to Section 15164 of the CEQA guidelines.

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 section 15162(c) of CEQA Guidelines.
- c) A Site Management Plan (SMP) was prepared by the property owner, Dan Gribi, for the subject site in September 2023 in compliance with the State Water Resources Control Board (SWRCB) Cannabis General Order for Waste Discharge (WQ2019-0001-DWQ). The project is conditioned to adhere to and implement the recommendations of the SMP 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 (CNDDB) there is potential presence of giant fawn lily (*Erythronium oregonum*) on an adjacent parcel. The nearest mapped Northern Spotted Owl (NSO) (*Strix occidentalis caurina*) activity center (HUM0976) is approximately 2.1 miles to the north, and habitat for marbled murrelet (*Brachyramphus marmoratus*) exists approx. 1.3 miles north of the parcel boundary.

The project is for pre-existing cultivation, no new structures are proposed on this site that would impact the giant fawn lily, and the project has been conditioned to provide a seasonally appropriate botanical survey for any new ground disturbing activities. Artificial light will be blocked by blackout tarps to prevent any light from escaping the structures 30 minutes prior to sunset and 30 minutes

after sunrise. The generator used for emergency backup shall operate at or below 50 decibels (dB) at 100 feet or nearest forested edge, whichever is closer. As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively impact NSO or other sensitive species.

- e) Thomas Road is a Category 4 road according to Public Works' List of County Maintained Roads that meet (or are equivalent to) Road Category 4 standards for Cannabis Projects. The private driveway accessing the property is managed by a Road Maintenance Association in which the applicant is a member. Project conditions require the applicant to demonstrate within two years of project approval the private access driveway meets California Department of Forestry and Fire Protection (CalFIRE) Minimum State Responsibility Area (SRA) Fire Safe Regulations.
- 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 existing open areas which will continue to be used for cultivation activities. Aerial imagery suggests that clearing of trees occurred between 2014 and 2016 on one of the TPZ zoned portions of the site, but this clearing is not proposed for any cultivation activities and no structures have been constructed or proposed within that clearing. Aerial imagery suggests new growth of foliage at various locations onsite since 2005. No tree removal is proposed or authorized by this permit.
- g) A Cultural Resources Investigation dated June 2019 was prepared by William Rich and found two sensitive cultural or historical resources, but all cultivation related activities are situated over 600 feet from either sensitive resource. The project is conditioned to implement inadvertent discovery protocol for any ground disturbing activities.

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.

4. FINDING: The proposed development is consistent with the purposes of the existing Agricultural Exclusive (AE), Unclassified (U), and Timber Production (TPZ) zones in which the site is located.

- EVIDENCE:**
- a) General agricultural uses are principally permitted in the U zone. The only aspect of the project on the property zoned U is a hydroelectric power source used for agricultural purposes.
 - b) General agricultural uses are principally permitted in the AE zone.
 - c) No activities associated with the project are located or proposed on the portions of the parcels zoned TPZ.
 - d) Section 55.4.9 of the CMMLUO allows cultivation of up to 10,000 square feet of existing cannabis a 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 9,960 SF of existing Outdoor commercial cannabis cultivation on a roughly 250 acre parcel is consistent with this and with the cultivation area verification prepared by staff.
 - e) All cultivation is at least 30 feet from all property lines and there are no public parks, churches, school bus stops or other sensitive receptors within 600 feet of the cultivation areas.

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 AE (CMMLUO Section 55.4.8.2.2).
 - b) The parcels were created in compliance with all applicable state and local subdivision regulations. The subject parcels have each been determined to be one legal parcel by Certificate of Subdivision Compliance 2022-019908 and per the completion of the conditions associated with PLN-2022-17998.

- c) The project will obtain water from rainwater catchment, an eligible water source. A provided rainwater catchment analysis demonstrates adequate water can be collected in low rainfall years.
- d) Thomas Road is a Category 4 road according to Public Works' List of County Maintained Roads that meet (or are equivalent to) Road Category 4 standards for Cannabis Projects. The private driveway accessing the property is managed by a Road Maintenance Association in which the applicant is a member. Project conditions require the applicant to demonstrate within two years of project approval the private access driveway meets California Department of Forestry and Fire Protection (CalFIRE) Minimum State Responsibility Area (SRA) Fire Safe Regulations.
- e) The slope of the land where existing cannabis will be cultivated is 0% to 30% on existing flats. No new grading will occur.
- f) The continued cultivation of cannabis will not result in the net conversion of timberland.
- g) Power will be provided by a combination of a photovoltaic system, and a micro-hydro system, with generator serving as emergency backup.
- h) 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 and more than 600 feet from any school, church, public park, or Tribal Cultural Resource.

6. FINDING:

The continued cultivation of 9,960 square feet of existing 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) Access roads are County-maintained, and project conditions require private driveway to meet CalFIRE SRA regulations pertaining to access roads and driveways.
- 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) Irrigation water will come from rainwater catchment, an eligible water source.
- d) Provisions have been made in the applicant's Site Management Plan (SMP) to protect water quality and therefore 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 primary 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 and one residence is present onsite. The approval of cannabis cultivation on this parcel will not conflict with the residence on this parcel. A portion of 221-071-045 is included in the housing inventory of the Housing Element, but the inventoried portion of the property, former parcel number 221-071-019, does not overlap with the location of the micro-hydroelectric system and the micro-hydroelectric system would not conflict with the ability for a residence to be constructed or permitted on the parcel.

314-61.1.7.6.3.1 - Findings for Streamside Management Area Encroachment

8. FINDING: The mapping of the SMA is not accurate, there are no in-channel wetland characteristics or off-channel riparian vegetation, or the reduction will not significantly affect the biological resources of the SMA on the property.

EVIDENCE: a) The reduction will not significantly affect the biological resources of the SMA on the property because it will only apply to the point that the micro-hydro system is installed, and because the micro-hydro system will not remove any water from the tributary that flows through it. The LSAA onsite includes the micro-hydro system as one of the project encroachments, and requires removal of nearby

refuse as part of the improvements to comply with the LSAA. The project is conditioned to comply with the LSAA.

312-18.1 – Supplemental Finding for Conditionally Permitted Uses in an AE Zone

9. FINDING: The proposed use will not impair the continued agricultural use on the subject property or on adjacent lands or the economic viability of agricultural operations on the site.

EVIDENCE:

- a) The proposed cannabis cultivation is an agricultural product, so agricultural use will continue on the subject property as a result of this permit.
- b) There is no evidence that would suggest an impact to agricultural uses on adjacent lands as a result of the continued agricultural operation on the subject parcel.

Resolution 18-43 – Finding For Consistency with Watershed Cap

10. 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 in the South Fork Eel Watershed, which under Resolution 18-43 is limited to 730 permits and 251 acres of cultivation. With the approval of the two adjacent projects together, the total approved permits in this Planning Watershed would be 288 permits and the total approved acres would be 86.1 acres of cultivation.
- b) The project is within the Salmon Creek subwatershed, which is one of the Cannabis Impacted watersheds, as identified in Resolution 18-43. Therefore, no expansion beyond the pre-existing cultivation site is permitted. The proposed project will not result in any expansion of cannabis activities that were not in existence prior to 2016.

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 Birds of Paradise LLC Special Permit subject to the conditions of approval.

Adopted after review and consideration of all the evidence on **February 6, 2025**.

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 matter by said Zoning Administrator at a meeting held on the date noted above.

John H. Ford, Zoning Administrator,
Planning and Building Department