

**RESOLUTION OF THE PLANNING COMMISSIONER
OF THE COUNTY OF HUMBOLDT**

Resolution Number 22-

Record Number: PLN-2022-17861

Assessor's Parcel Number: 107-272-007

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Xotic Flavors, Special Permit request

WHEREAS, Xotic Flavors, LLC, submitted an application and evidence in support of approving a Special Permit for 33,560 square feet of new outdoor cannabis operation with appurtenant propagation and drying activities;

WHEREAS, the County Planning Division, the lead agency, prepared an Addendum to the Final Environmental Impact Report (EIR) prepared for the Commercial Cannabis Land Use Ordinance (CCLUO) adopted by the Humboldt County Board of Supervisors on May 8, 2018. The proposed project does not present substantial changes that would require major revisions to the previous Environmental Impact Report. 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 December 15, 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 Planning Commission makes all the following findings:

- 1. FINDING:** **Project Description:** The applicant is seeking a Special Permit for 33,560 square feet of new outdoor cannabis operation with appurtenant propagation, drying and trimming activities. Including the previously permitted 10,000 sf of cultivation and 33,330 square feet of receiving cultivation through the RRR provisions of Humboldt County Code a previously approved project (PLN-11067-SP) total of 76,890 square feet of commercial cannabis cultivation will be occurring onsite. Power for the previously approved project is sourced from existing PG&E service, and the power for the proposed project will be sourced from a proposed solar array, transitioning to renewable energy from PG&E if and when available. The applicant will keep a generator on site for emergency backup use in power outage events. Water for irrigation will be provided by an existing rainwater catchment pond.

EVIDENCE: a) Project File: PLN-2022-17861

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 the Environmental Impact Report (EIR) prepared for the Commercial Cannabis Land Use Ordinance (CCLUO) adopted by the Humboldt County Board of Supervisors on May 8, 2018.

- 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 EIR. 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.
 - d) A *Biological Assessment* was prepared by Timberland Resource Consultants dated August 2021, with adherence to biologist recommendations included as conditions of approval. No special status species or sensitive natural communities are anticipated to be impacted by the project.
 - e) The property is accessed via Applewood Road, and the applicant submitted a road evaluation report prepared by a licensed engineer. The Department of Public Works recommended approval of the project with a recommended condition to maintain the intersection of Old Hindley Ranch Road with Mattole Road in accordance with the County Sight Visibility Ordinance.
 - f) The project is located in the Bear River Band and Sinkyone Aboriginal Ancestral Territories. The project was referred to Northwest Information Center, Bear River Band, and Sinkyone tribe. The applicant submitted a Cultural Resource Investigation included in the application materials, evaluating the subject property. An isolated chert flake, a portion of an abandoned airstrip, and the remnants of a fruit orchard were identified on the subject parcel. No new structures are proposed for the areas containing the chert flake or the remains of the fruit orchard. The cultivation is proposed to be built on the remnants of the airstrip. While the airstrip has not been formally evaluated, the resource has been degraded resulting from neglect and the introduction of multiple structures and associated infrastructure on the airstrip across multiple properties. These facts make the airstrip unlikely to be considered a cultural resource for the purposes of CEQA. The Cultural Resource Investigation recommended Inadvertent Discovery Protocol, which has been included as a recommended condition of approval

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

EVIDENCE: General agriculture is a use type permitted in Agricultural Exclusive (AE) 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 AE-B-6 zone in which the site is located.

EVIDENCE:

- a) General agricultural is a principally permitted use in the AE zone.
- b) Humboldt County Code section 314-55.4.6 allows cultivation of up to 43,560 square feet of new outdoor cannabis and up to 43,560 square feet of new mixed-light cannabis on a parcel over 10 acres subject to approval of a Special Permit. The application for 33,560 square feet of outdoor cannabis cultivation on a 14.43-acre parcel is consistent with this. The site has already been permitted separately to receive 33,330 square feet of cultivation through the RRR process which is counted separately towards the permissible cultivation under Section 314-55.4.6.

5. FINDING: The proposed development is consistent with the requirements of the CCLUO Provisions of the Zoning Ordinance.

EVIDENCE:

- a) The CCLUO allows new cannabis cultivation to be permitted in areas zoned AG (HCC 314-55.4.6.1.1).
- b) The subject parcel has been determined to be a legal parcel (lot 16 of tract no. 130) as shown on Subdivision Map recorded in Book 16 of Parcel Maps page 128, October 1977.
- c) The project will obtain water from rainwater catchment, a non-diversionary water source.
- d) The property is accessed via Applewood Road, and the applicant submitted a road evaluation report prepared by a licensed engineer. The Department of Public Works recommended approval of the project with a recommended condition to maintain the intersection of Old Hindley Ranch Road with Mattole Road in accordance with the County Sight Visibility Ordinance.

- e) The slope of the land where cannabis will be cultivated is less than 15%.
- f) 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, or Tribal Cultural Resource. The proposed development is within 270 feet of an adjacent property, however the adjacent property has a permitted cannabis operation in place.

6. FINDING:

The cultivation of 33,560 square feet of new outdoor light deprivation 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 property is accessed via Applewood Road, and the applicant submitted a road evaluation report prepared by a licensed engineer. The Department of Public Works recommended approval of the project with a recommended condition to maintain the intersection of Old Hindley Ranch Road with Mattole Road in accordance with the County Sight Visibility Ordinance.
- b) The site is in a rural part of the County where the typical parcel size is over 10 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) Irrigation water will be sourced from an existing rainwater catchment pond.
- d) Artificial lighting used for project activities will adhere to shielding and International Dark Sky Association standards as set forth in the CCLUO.
- f) The proposed development is within 270 feet of an adjacent property, however the adjacent property has permitted cannabis operations in place
- g) A *Biological Assessment* was prepared by Timberland Resource Consultants dated August 2021, with adherence to biologist recommendations included as conditions of approval. No special status species or sensitive natural communities are anticipated to be

impacted by the project.

- h) The project is located in the Bear River Band and Sinkyone Aboriginal Ancestral Territories. The project was referred to Northwest Information Center, Bear River Band, and Sinkyone tribe. The applicant submitted a Cultural Resource Investigation included in the application materials, evaluating the subject property. An isolated chert flake, a portion of an abandoned airstrip, and the remnants of a fruit orchard were identified on the subject parcel. No new structures are proposed for the areas containing the chert flake or the remains of the fruit orchard. The cultivation is proposed to be built on the remnants of the airstrip. While the airstrip has not been formally evaluated, the resource has been degraded resulting from neglect and the introduction of multiple structures and associated infrastructure on the airstrip across multiple properties. These facts make the airstrip unlikely to be considered a cultural resource for the purposes of CEQA. The Cultural Resource Investigation recommended Inadvertent Discovery Protocol, which has been included as a recommended condition of approval

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.

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 227 permits and the total approved acres would be 80.47 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 Special Permit for Xotic Flavorz, LLC based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference;

Adopted after review and consideration of all the evidence on December 15, 2022.

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