

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

Resolution Number 22-

**Application Number PLN-12042-SP
Assessor's Parcel Number: 221-211-025**

Resolution by the Zoning Administrator of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Reuben Valdivia Special Permit request

WHEREAS, Reuben Valdivia, submitted an application and evidence in support of approving a Special Permit for the operation of an existing 7,964 square foot outdoor cannabis cultivation with drying activities;

WHEREAS, the County Planning Division, the lead agency, prepared an Addendum to 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. 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 **October 6, 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:

- 1. FINDING:** **Project Description:** The application is a Special Permit to allow for an existing 7,964 square feet of outdoor cannabis cultivation. Irrigation for cultivation is provided by point of diversion for which the applicant has demonstrated a valid water right. There are 95,000 gallons of water storage for the project, and the applicant expects water use to total 93,000 gallons annually. Power is supplied by solar power and a generator.

EVIDENCE: a) Project File: PLN-12042-SP

- 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 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 property is accessed via private driveway from from Ettersburg Honeydew Road, a County maintained road. According to the Road Evaluation submitted by the applicant dated November 5, 2018, the entire private driveway segment from Ettersburg-Honeydew Road to the subject property is developed to a Category 4 road standard
- d) The applicant has submitted a *Cultural Resource Investigation* prepared by Nick Angeloff of Archaeological Research and Supply Company which concluded the cannabis operation will not affect significant historic resources.
- e) A Notice of Applicability in compliance with the State Water Board Cannabis General Order for Waste Discharge has been conditioned. The applicant is required to provide all documents filed with the State Water Resources Control Board, including but not limited to a Site Management Plan.
- f) A review of data from the California Natural Diversity Database (CNDDDB) using Humboldt County WebGIS shows an occurrence of Southern Torrent Salamander (State Rank: Imperiled/Vulnerable) recorded in February of 1963 in the parcel area. Due to the nature of the pre-existing cannabis operation, the levels of uncertainty regarding the location of the occurrence, habitat quality in the area, and population condition of the occurrence, coupled with the conditioned verification from a qualified biologist, Staff concludes that the project as proposed does not present a significant adverse impact to the Southern Torrent Salamander or other sensitive species.
- g) An illegal timber conversion occurred on the subject property, and Tim Meyers of CalFIRE conducted an inspection of the property on December 12, 2016. Mitigation measures were prescribed, and the applicant completed the mitigation measures to the satisfaction of CalFIRE. The violation has been considered mitigated and the issue closed according to a Notice of Inspection from Tim Meyers of CalFIRE dated September 21, 2017.

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 Residential Agricultural (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 U zone in which the site is located.

- EVIDENCE**
- a) The Unclassified Zone or U Zone is intended to be applied to areas of the County in which general agriculture is a principally permitted use.
 - b) Humboldt County Code section 314-55.4.8.2.2 allows up to 10,000 square feet of existing cannabis on an Unclassified zoned parcel over 1 acre subject to approval of a Special Permit. The application for 7,964 square feet of commercial cannabis cultivation on a 17-acre parcel is consistent with this.

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 when possible to bring them into compliance with all applicable standards and to eliminate existing violations (HCC 314-55.4.8.2.2).
 - b) APN 221-211-025 has been determined to be a legal parcel demonstrated by Certificate of Subdivision Compliance Recording No. 2021-025960
 - c) Irrigation water for the project is provided by a point of diversion for which the applicant has demonstrated a valid water right. The applicant has secured water storage in amounts appropriate for the proposed water use while adhering to forbearance requirements.
 - d) The property is accessed via private driveway from from Ettersburg Honeydew Road, a County maintained road. According to the Road Evaluation submitted by the applicant dated November 5, 2018, the entire private driveway segment from Ettersburg-Honeydew Road to the subject property is developed to a Category 4 road standard.
 - e) Cannabis will be cultivated on graded flats that were in existence prior to 2016. The slope of the area 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.
 - g) An illegal timber conversion occurred on the subject property, and Tim Meyers of CalFIRE conducted an inspection of the property on December 12, 2016. Mitigation measures were prescribed, and the applicant completed the mitigation measures to the satisfaction of CalFIRE. The violation has been considered mitigated and the issue closed according to a Notice of Inspection from Tim Meyers of CalFIRE dated September 21, 2017.

6. FINDING The cultivation of 7,964 square feet of commercial 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 private driveway from from Ettersburg Honeydew Road, a County maintained road. According to the Road Evaluation submitted by the applicant dated November 5, 2018, the entire private driveway segment from Ettersburg-Honeydew Road to the subject property is developed to a Category 4 road standard.
- 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 cultivation will not be in a location that will impact sensitive receptors 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) Cultivation meets 300-foot setbacks to residences on neighboring parcels.
- d) Irrigation water for the project is provided by a point of diversion for which the applicant has demonstrated a valid water right. The applicant has secured water storage in amounts appropriate for the proposed water use while adhering to forbearance requirements.

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 included in the housing inventory of Humboldt County's 2019 Housing Element. It was determined that one unit was the realistic capacity of the parcel. Given the size of the parcel, permitted cannabis will not preclude the parcel from future residential development.

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 would be 205 permits and the total approved acres would be 72.6 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 Reuben Valdivia, 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 **October 6, 2022,**

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