

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

Resolution Number 22-

Record Number PLN-11928-CUP

Assessor's Parcel Number: 212-201-009

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Ivan Stoyanov Conditional Use Permit.

WHEREAS, Ivan Stoyanov, seeks a Conditional Use Permit (PLN-11928-CUP) for a maximum of 11,900 square feet (SF) of mixed light cannabis cultivation, as allowed per the existing cultivation area verification. Plants would be propagated in a proposed 1,190-SF immature plant area/nursery and dried in a 4,608 SF barn on site. This allotment of 1,190 SF is consistent with the 10 percent maximum growing area;

WHEREAS, the County prepared an Addendum to the Final Mitigated Negative Declaration (MND) 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 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 Planning Commission held a duly-noticed public hearing on **December 1, 2022**, and reviewed, considered, and discussed the application for the requested 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 for a Conditional Use Permit (PLN-11928-CUP) for a maximum of 11,900 square feet (SF) of mixed light cannabis cultivation, as allowed per the existing cultivation area verification. Plants would be propagated in a proposed 1,190-SF immature plant area/nursery and dried in a 4,608 SF barn on site. This allotment of 1,190 SF is consistent with the 10 percent maximum growing area. Drying will occur onsite and processing will occur off-site. The project will utilize the applicant and up to three (3) family members for harvesting. Power will be provided by a 25kv Multiquip WhisperWatt generator.
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EVIDENCE:	Project File: PLN-11928-CUP
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2. FINDING:	CEQA. The requirements of the California Environmental Quality Act have been met. The Humboldt County Planning Commission has considered the Addendum to the Mitigated Negative Declaration
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(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 to the MND prepared for the proposed project in compliance with CEQA (**Attachment 2**).
 - b) The 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 California Department of Fish and Wildlife reviewed the Project and identified the following conditions for Project approval: allow for a site inspection to comply with the final Lake or Streambed Alteration Agreement; contain all artificial light such that no light escapes and structures shall be enclosed between 30 minutes prior to sunset and 30 minutes after sunrise; prohibit use of synthetic netting; leave wildlife unharmed; ensure that noise containing structures for generators do not allow for noise released exceeding no more than 50 decibels measured from 100 feet; and drain onsite irrigation ponds at the end of each growing season in order to avoid the recruitment of American bullfrog (an invasive species) (**Condition 11**).
 - d) A Water Resources Protection Plan (WRPP) was prepared by Timberland Resource Consultants (TRC) to comply with State Water Resources Control Board (SWRCB) General Order WQ 2019-0001-DWQ. The document was prepared to meet the North Coast Regional Water Quality Control Board (NCRWQCB) requirements for Tier 2 discharges of waste resulting from cannabis cultivation (WDID No. 1B171718CHUM). The WRPP identifies the following actions: record the use of fertilizers, soil amendments, and pesticides for annual reporting; install meters to track water use for irrigation of cannabis; store in-use fertilizers in a small container adjacent to the mixing tanks; avoid frequent use of un-surfaced roads, particularly when roads are soft/saturated after wet weather; regularly inspect culverts during winter months to check for plugging, blockage or other issues; maintain existing or newly installed road surface drainage structures such as water bars, rolling dips, ditch relief culverts, and intentionally in/out sloped segments of road to continue the function of capturing and draining surface runoff; and use spill trays when fueling portable generators or water pumps to prevent leeching, seepage or spillage. The project has been conditioned to comply with all requirements and recommendations contained within the WRPP (**Condition 8**).
 - e) A records search of the project area was conducted by the Northwest Information Center (NWIC), which indicated no previous surveys had been conducted within ½ mile of the project area. Consultations with

the NWIC and Bear River Band of the Rohnerville Rancheria recommends the use of Inadvertent Discovery Protocol (PRC 15064.5 (f)) by a qualified professional archaeologist, if any previously unidentified cultural resources or human remains are encountered throughout project implementation (**Condition 10**).

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) General agriculture is a use type permitted in the Timberland (T) land use designation. The proposed cannabis cultivation, an agricultural product, is within land planned and zoned for agricultural purposes, and 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.

b) The proposed project does not include cultivation or related activities within streamside management areas.

- 4. FINDING** The proposed development is consistent with the purposes of the existing Timberland Production Zone (TPZ) zoning designation in which the site is located.

EVIDENCE: a) The TPZ zone is intended to be applied in fertile areas in which timberland production should be the desirable predominant use, and in which the protection of this use from encroachment from incompatible uses is essential to the general welfare.

b) Humboldt County Code section 313-106.6 allows cultivation of up to 43,560 SF of existing outdoor cannabis and up to 22,000 SF of existing mixed-light cannabis on a parcel over 1 acre, 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 a total of 11,900 SF of mixed-light cannabis cultivation and a 1,190-SF immature plant area on a 37-acre parcel is consistent with the Humboldt County Code 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 Timberland Production Zone (TPZ) (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 by deed recorded with the County of Humboldt in official records (volume 392, page 306) dated May 15, 1956.

Irrigation water is sourced from an engineered 348,864-gallon rainwater catchment pond located on the parcel. Water is pumped from the pond and stored in hard tanks on site, consisting of five (5) 2,500-gallon tanks and one (1) proposed 15,000-gallon tank to provide 27,500 gallons total storage. Annual water use is estimated to be approximately 212,000 gallons per year (18.43 gallons/SF).

- d) The slope of the land where cannabis is cultivated is greater than 15%. Because this is an existing cultivation site, the CMMLUO does not require cultivation to occur on slopes of 15% or less.
- e) The cultivation of cannabis will not result in the net conversion of timberland. The cultivation area(s) are located within a historical cultivation area.
- 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, more than 300 feet from any offsite residence, and more than 600 feet from any school, church, public park, or Tribal Cultural Resource.

6. FINDING

The cultivation of 11,900 SF of cannabis 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 sizes of parcels within the area.
 - b) The location of the proposed cannabis cultivation is more than 300 feet from the nearest off-site residence.
 - c) Provisions have been made in the applicant's proposal to protect water quality through yearly site inspection, monitoring, and reporting to the NCRWQCB. The applicant shall comply with all provisions of the Monitoring and Reporting Program (MRP), as specified by the NCRWQCB. Annual reporting shall be submitted to the NCRWQCB by March 1 of each year (**Condition B.15**).

7. FINDING

The proposed cultivation 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:

The parcel contains an existing residential unit. The project does not include the development of an additional residential unit.

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 the South Fork Eel 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 218 permits and the total approved acres would be 78.04 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 approve the Conditional Use Permit (PLN-11928-CUP) for Ivan Stoyanov 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 December 1, 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