

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

Resolution Number 22-

Record Number PLN-12214-CUP

Assessor's Parcel Number: 219-041-012

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Lower Thomas Road, LLC Conditional Use Permit.

WHEREAS, Lower Thomas Road, LLC applied for a Conditional Use Permit (PLN-12214-CUP) for an existing 9,248 square feet (SF) of outdoor cannabis cultivation, contained within 17 greenhouses. Plants are propagated in a nursery (400 SF) and secondary ancillary nursery (250 SF) totaling 650 SF (7% of cultivation area), and a Special Permit to allow the continued use of existing onsite buildings and a portion of the road located within the 100-foot setback of a Class II watercourse;

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 a a Conditional Use Permit (PLN-12214-CUP) for an existing 9,248 square feet (SF) of outdoor cannabis cultivation, contained within 17 greenhouses. Plants are propagated in a nursery (400 SF) and secondary ancillary nursery (250 SF) totaling 650 SF (7% of cultivation area), and a Special Permit to allow the continued use of existing onsite buildings and a portion of the road located within the 100-foot setback of a Class II watercourse. The primary source of electrical power is a solar array with battery storage, and backup propane generator (Kohler 8.5kW). Irrigation water is sourced from a permitted groundwater well (Humboldt County permit number 18/19-0859. Estimated annual irrigation water usage is 144,500 gallons (15.63 gal/SF). Water is stored onsite utilizing twenty (20) storage tanks consisting of: 4-3,000 gallon tanks, 8-5,000 gallon tanks, 2-4,700 gallon tanks, 1-1,010 gallon tank, 2-500

gallon tanks, and 3-300 gallon tanks. Total water storage onsite is 64,310 gallons.

EVIDENCE: Project File: PLN-12214-CUP

2. FINDING: **CEQA.** The requirements of the California Environmental Quality Act have been met. 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 to the MND prepared for the proposed project in compliance with CEQA.

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) A list of potential special status species was generated in January 2022 using the following information systems: California Natural Diversity Database (CDFW 2022), Biogeographic Information and Observation System (BIOS), Northern Spotted Owl Viewer (CDFW 2022), and US Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC). Two (2) special status species appear within one (1) mile of the project area: the foothill yellow-legged frog (approximately 2,400 feet away) and the Humboldt County milk-vetch (approximately 4,800 feet away), both state-listed endangered species. Project activities are not expected to produce adverse or cumulative effects to any special status species or habitat, due to the small size of the project area and the type of proposed activities. Therefore, impacts to biological resources with project are considered low and unlikely, with implementation of the mitigation measures identified in the CMMLUO Mitigated Negative Declaration (MND) adopted on January 26, 2016.

d) A Site Management Plan (SMP) was prepared in June 2021, by Pacific Watershed Associates, in fulfillment of State Water Resources Control Board (SWRCB) General Order WQ 2019-0001-DWQ. The document was prepared to meet the North Coast Regional Regional Water Quality Control Board (NCRWQCB) requirements for Tier 1 discharges of waste resulting from cannabis cultivation (WDID No. 1-12CC419107).

e) A records search for known cultural resources was requested from the

Northwest Information Center (NWIC). The records search revealed that no previous cultural resources field studies have been recorded for the subject parcel. The referral from NWIC recommended having a qualified professional assess the project area to determine if archaeological and/or cultural resources are present. The Bear River Band of the Rohnerville Rancheria was contacted and Erika Cooper, Tribal Historic Preservation Officer, recommended the project implement the standard inadvertent discovery protocol (**Condition 9**).

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 Residential Agriculture (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.
 - b) The proposed cultivation site is not located within any riparian setbacks or streamside management areas. The project includes a Special Permit to allow continued use of existing buildings and a portion of the road located within the 100-foot setback of a Class II stream.

4. FINDING

The proposed development is consistent with the purposes of the existing Forestry Recreation with Special Combining District (FR-B-5[40]) zoning designation in which the site is located.

- EVIDENCE:**
- a) The FR zone is intended to be applied to forested areas of the County in which timber production and recreation are the desirable predominant uses and agriculture is the secondary use, and in which protection of the timber and recreational lands is essential to the general welfare. General agriculture, including the cultivation of cannabis, is a principal permitted use in this zoning district.
 - 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 9,248-SF of outdoor cannabis cultivation and a 650-SF ancillary propagation area on a 42-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 Forestry Recreation (FR), (HCC 314-7.3)

b) The parcel is a legal lot as shown on PM22 of PM Book 1, Page 35.

Irrigation water is sourced from a permitted groundwater well (Humboldt County permit number 18/19-0859. Estimated annual irrigation water usage is 144,500 gallons (15.63 gal/SF).

d) The slope of the land where cannabis will be cultivated on slopes of 15% or less.

e) The cultivation of cannabis will not result in additional conversion of timberland. Approximately 0.57 acre of timberland was converted to cultivation area previously. A Timberland Conversion Evaluation Report (TCER) was prepared by Timberland Resource Consultants to address unpermitted conversion. The report recommends treating two (2) deposits of slash and woody debris per the specifications of the TCER and retaining two (2) onsite old-growth Douglas fir trees (**Condition 13**).

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 9,248 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) All access roads on the property shall be maintained in compliance with the State Water Resources Control Board Order WQ 2019-0001-DWQ, which states that all access roads are to be hydrologically disconnected to receiving waters. To ensure that roads meet this condition, the applicant shall implement the measures outlined in the SMP that address the adverse effects of degraded road quality on adjacent water features (**Condition 8**).

- 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 sized in the area.
- c) The location of the proposed cannabis cultivation is more than 300 feet from the nearest off-site residence.
- d) Irrigation water is sourced from a permitted groundwater well (Humboldt County permit number 18/19-0859. Estimated annual irrigation water usage is 144,500 gallons (15.63 gal/SF).
- e) The applicant has submitted a “Hydrologic Isolation of Existing Well from Surface Waters” (Hydrologic) report, prepared by Lindberg Geologic Consulting (David Lindberg), dated October 11, 2022. The Hydrologic report concluded a “low likelihood of the well being hydrologically connected to nearby surface waters in any manner that could affect adjacent springs, wetlands, and or surface waters within the vicinity (1,000-foot radius)”...an area consisting of approximately 72 acres.”
- f) A Site Management Plan (SMP) was prepared in June 2021, by Pacific Watershed Associates, in fulfillment of State Water Resources Control Board (SWRCB) General Order WQ 2019-0001-DWQ. The document was prepared to meet the North Coast Regional Regional Water Quality Control Board (NCRWQCB) requirements for Tier 1 discharges of waste resulting from cannabis cultivation (WDID No. 1-12CC419107). The SMP includes “Table 1 – Prioritized implementations schedule for Best Practicable Treatment or Controls (BPTC)” which identifies a summary of corrective actions/recommendations throughout the site. Table 1 addresses routine maintenance and on-going monitoring actions to be implemented throughout Cultivation Areas, Roads, Stream Crossings, Fertilizer Storage areas, previously disturbed areas, trash/refuse collection areas. The project is conditioned to comply with the routine maintenance requirements found in Table 1 (**Condition 8**).

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:

The parcel contains an existing residential unit (yurt). No additional

residential units are proposed to be constructed on the project site.

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 730 permits and 251 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 299 permits and the total approved acres would be 91.30 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-12214-CUP) for Lower Thomas Road, 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 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