

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

Resolution Number 23-

Record Number PLN-10784-SP

Assessor's Parcel Number: 223-074-009

Resolution by the Zoning Administrator of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Flore Farms Inc. Special Permit.

WHEREAS, Flore Farms Inc. submitted an application and evidence in support of approving a Special Permit for 10,000 square feet of existing outdoor light-deprivation cannabis cultivation with ancillary propagation, and development of a 230,000-gallon water tank and 2,880 barn structure.

WHEREAS, the County Planning Division, the lead agency, prepared an Addendum to the Final 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. 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 September 7, 2023, and reviewed, considered, and discussed the application for the 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:

FINDING:

Project Description: A Special Permit for 10,000 square feet of existing outdoor light-deprivation cannabis cultivation occurring in 17 greenhouses, and a 600 square-foot ancillary propagation nursery. There will be up to two flowering cycles per year. Water for irrigation will be sourced from a proposed 230,000-gallon rain catchment tank. Water is currently sourced from a well and a 50,000-gallon tank on an adjacent property (APN 223-074-011). The applicant is proposing to stop using this system when the 230,000-gallon rain catchment tank is installed. There is an additional 17,300 gallons of hard storage that will be filled from the catchment tank. Annual water use for irrigation is 126,000 gallons. There will be up to two full time seasonal employees on

site during cultivation cycles. Cannabis will be dried and stored in a proposed 2,880 square-foot barn structure. The dried cannabis will then be moved to the applicant's licensed distributorship in Santa Rosa, CA where it will be trimmed, tested, packaged, and distributed. No power is required for cultivation activities.

EVIDENCE: Project File: PLN-10784-SP

- 1. FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Zoning Administrator has considered 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, and the addendum to the MND prepared for the project.

- 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 applicant will source water from rain catchment.
 - d) A Site Management Plan (SMP) was prepared for the subject parcel (APN 223-074-009) and APN 223-074-015 (formerly 223-074-004 and 223-074-006) by Hohman and Associates Forestry Consulting in October of 2020 (Attachment 4A) which details existing site conditions and remediation efforts needed to comply with the best practical treatment or control (BPTC) measures listed in Attachment A of the Cannabis General Order. According to the SMP there are no cannabis facilities within any Streamside Management Areas (SMAs) on the subject parcel. The project is conditioned to implement all remaining corrective actions (i.e., rolling dip installation, culvert placement, upgrades, or maintenance) detailed in the SMP for the subject parcel to minimize any potential impacts associated with the project and minimize runoff into SMAs.
 - e) The applicant has submitted a copy of a Lake or Streambed Alteration Agreement (LSAA) (No. 1600-2017-0771-R1) (Attachment 4B) that describes 12 proposed encroachments. One proposed encroachment is to upgrade a road crossing with no infrastructure. The 11 other proposed encroachments are to

upgrade failing and undersized culverts. Work for these encroachments will include excavation, removal of the failing culverts, replacement with new properly sized culverts, backfilling and compaction of fill, and rock armoring as necessary to minimize erosion. The work within the SMAs will be conducted in accordance with the LSAA and does not require a Special Permit pursuant to Section 314- 61.1.4.1 H.C.C. The project was referred to California Department of Fish and Wildlife (CDFW) on March 29, 2018, and again on August 4, 2023, and CDFW had no comments on the project. The project is conditioned that the applicant submits evidence of execution the above-described LSAA.

- f) A Biological Habitat Assessment was prepared for the subject parcel (APN 223-074-009) and APN 223-074-015 (formerly 223-074-004 and 223-074-006) by Hohman and Associates Forestry Consulting in January of 2021 (Attachment 4C). The document assessed habitats and potentially occurring special-status animals and identified potential impacts of cultivation-related activities on biological resources. The document included an evaluation of biological resources on the site, determinations of whether the project has the potential to significantly impact biological resources, recommendations of additional surveys needed to adequately assess potential impacts, and recommended mitigations to avoid, minimize, or compensate for any potentially significant impacts.

A subsequent Preliminary Biological Resource Assessment was prepared for the subject parcel (APN 223-074-009) and APN 223-074-015 (formerly 223-074-004 and 223-074-006) by Trans Terra Consulting in March of 2021 (Attachment 4D). The document provides baseline biological-resource data, observations, analysis, and, as needed, mitigation recommendations to fulfil the requirements of the cannabis permitting process by Humboldt County. It was designed to determine the potential extent of special habitats and whether protocol-level special status species surveys are necessary prior to development. Though protocol level surveys for plants were not conducted as recommended in the previous Biological Habitat Assessment, according to the report, surveys for sensitive natural communities followed CDFW's (2018) Protocol for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities. According to the report, the Oregon Oak Woodland was the only sensitive natural community identified in the assessment. Of the recommendation

included in both reports, the following are relevant to the proposed project.

1. Pesticides that may be used for cannabis cultivation are limited to low-risk exempt substances and those that are broadly labeled by the Department of Pesticide Regulation. The potential impact of insecticide use on pollinators shall be reduced by not spraying in the presence of pollinators and not allowing drift to flowering plants in the surrounding area (Hohman and Associates Forestry Consulting, January 2021).
2. Complete floristic surveys based on the Protocol for Surveying and Evaluating Impacts to Special Status native Plant Populations and Natural Communities (CDFW 2018) (Hohman and Associates Forestry Consulting, January 2021).
3. While much of the Project Area is previously disturbed, if further ground disturbance or vegetation removal is to occur botany surveys and preconstruction surveys are recommended (Trans Terra Consulting, March 2021).

According to the Operations Plan the applicant uses no poisons and uses food grade products to eliminate pests. They utilize PH adjusted water to eliminate a variety of pests which replaces chemical pesticides. All storage of these compounds is in storage sheds with secondary containment.

Construction of the 230,000-gallon ware tank and the 2,880 square-foot barn structure will take place in previously disturbed areas and staff concludes that floristic/botany surveys and preconstruction surveys are not necessary prior to development of these structures.

The project was referred to CDFW on March 29, 2018, and again on August 4, 2023, and CDFW had no comments on the project.

- g) The project was referred to the Northwest Information Center (NWIC), the Bear River Band of the Rohnerville Rancheria, and the Intertribal Sinkyone Wilderness Council. NWIC replied recommending that the local Native American tribes be contacted regarding traditional, cultural, and religious heritage values. The Bear River Band replied recommending that a cultural resources survey be conducted on the property. The applicant retained Archaeological Research and Supply Company to complete a comprehensive field survey and prepare a Cultural Resource Investigation Report, which was completed in November of

2017. The report states that no significant historical resources were identified during the survey and no pre-existing resources have been recorded on the property, and that no resources will be impacted by the project. However, the report recommends that heightened inadvertent discovery protocol be followed. A condition of project approval has been incorporated regarding the heightened inadvertent discovery protocol to protect cultural resources.

- h) The site is accessed via Little Buck Mountain Road, which intersects with Alderpoint Road, and a private drive. The Public Works Department (PW) recommended approval with a condition that the existing on-site driveway be improved to commercial standards as Alderpoint Road is approved by the PW for use by commercial cannabis operations. An encroachment permit has since been issued, and this work has been completed by the applicant's father for his permitted commercial cannabis nursery on APN 223-074-011. The access roads serve both the subject parcel and APN 223-074-011. A Roadway Evaluation Report for the access roads serving both APN 223-074-011 and the subject parcel was prepared for the applicant's father by Trinity Valley Consulting Engineers, Inc. in April of 2019 (Attachment 4C). The report identified several road points in need of repair and/or maintenance and recommendations were made in the report to address these issues. Per a Roadway Evaluation Work Inspection letter from Trinity Valley Consulting Engineers, Inc. dated December 28, 2020 (Attachment 4D), an inspection by Josh McKnight, P.E. showed the work to have been completed adequately in conformance with the Roadway Evaluation Report noted above. Ongoing maintenance is also recommended in the report that is conducted annually by the applicant and his father.

As the project will utilize no more than two employees, it is determined that the project would not result in a significant increase in traffic, and it has been determined that the access roads (with the completed recommended improvements and maintenance) meet the functional capacity for the project's needs.

FINDINGS FOR SPECIAL PERMIT

2. FINDING

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

EVIDENCE

- a) General and intensive agriculture are allowed uses in lands designated Agricultural Grazing (AG).
- b) The proposed project is located within an Open Space Action Program because the parcel is zoned Agriculture Exclusive (AE) and Timberland Production Zone (TPZ), is within the AG land use designation, has project elements within areas of high geologic instability, and is in an area of very high fire severity (see hazards discussion below). General agriculture is a use type principally permitted in the AE zoning district and is an allowed. General agriculture is also a permitted use in the 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. Therefore, the project is consistent with and complimentary to the Open Space Plan and its Open Space Action Program.
- c) The subject parcel is located in an area of high geologic instability but is not located within an Alquist-Priolo Fault Hazard Zone. The subject parcel is not located within in any flood zone or is susceptible to dam failure inundation. The subject parcel is located within a very high fire hazard severity zone within the State Responsibility Area for fire protection. The proposed 230,000-gallon water tank and the proposed 2,880 barn structure will both be constructed of metal. There are several water tanks on site meeting or exceeding 2,500 gallons with SRA turnarounds in close proximity. The project is conditioned that one of the tanks, or an additional 2,500-gallon tank is reserved for fire suppression and is fitted with the appropriate fire hose connection that meets CalFire SRA requirements. No increased threats to hazards are anticipated as a result of the project.
- d) The subject parcel is under a Williamson Act Contract that has been non-renewed by the County. The County Williamson Act Committee and Board of Supervisors have determined that cannabis cultivation is a compatible use within Williamson Act lands and the proposed project does not affect the non-renewal of the existing Williamson Act Contract.

3. FINDING The proposed development is consistent with the purposes of the existing AE zone in which the project is located.

Note: no existing or proposed elements of the project are located within areas zoned TPZ on the parcel.

- EVIDENCE**
- a) The AE zone is intended to be applied to areas of the County in which general agriculture uses is a desirable use.
 - b) All general agricultural uses are principally permitted in the AE zone.
 - c) The project meets the minimum yard setbacks, minimum distances between major buildings, and maximum ground coverage requirements of the zone.
 - d) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 10,000 square feet of existing outdoor cannabis cultivation on a parcel zoned AE over 1 acre subject to approval of a Special Permit. The application is for 10,000 square feet of pre-existing outdoor cultivation on a 160-acre parcel.

4. FINDING The proposed development is consistent with the requirements of the CMMLUO Provisions of the Zoning Ordinance.

- EVIDENCE**
- a) The CMMLUO allows existing outdoor cannabis cultivation to be permitted in areas zoned AE (HCC 314-55.4.8.2.2).
 - b) The subject parcel has been determined to be one legal parcel per Certificate of Subdivision Compliance, Instrument No. 2017-005374, recorded March 27, 2017.
 - c) The applicant will source water from rain catchment.

- d) The site is accessed via Little Buck Mountain Road, which intersects with Alderpoint Road, and a private drive. The Public Works Department (PW) recommended approval with a condition that the existing on-site driveway be improved to commercial standards as Alderpoint Road is approved by the PW for use by commercial cannabis operations. An encroachment permit has since been issued, and this work has been completed by the applicant's father for his permitted commercial cannabis nursery on APN 223-074-011. The access roads serve both the subject parcel and APN 223-074-011. A Roadway Evaluation Report for the access roads serving both APN 223-074-011 and the subject parcel was prepared for the applicant's father by Trinity Valley Consulting Engineers, Inc. in April of 2019 (Attachment 4C). The report identified several road points in need of repair and/or maintenance and recommendations were made in the report to address these issues. Per a Roadway Evaluation Work Inspection letter from Trinity Valley Consulting Engineers, Inc. dated December 28, 2020 (Attachment 4D), an inspection by Josh McKnight, P.E. showed the work to have been completed adequately in conformance with the Roadway Evaluation Report noted above. Ongoing maintenance is also recommended in the report that is conducted annually by the applicant and his father.

As the project will utilize no more than two employees, it is determined that the project would not result in a significant increase in traffic, and it has been determined that the access roads (with the completed recommended improvements and maintenance) meet the functional capacity for the project's needs.

- e) 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, school bus stop, church or other place of religious worship, or Tribal Cultural Resource.
- f) No power is required for cultivation activities.

5. FINDING

The cultivation of 10,000 square feet of 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 site is not 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 will not change the existing character of the area due to the numerous other permitted cultivation operations nearby.

- b) The applicant will source water from rain catchment.
- c) The subject parcel is located within a very high fire hazard severity zone within the State Responsibility Area for fire protection. The proposed 230,000-gallon water tank and the proposed 2,880 barn structure will both be constructed of metal. There are several water tanks on site meeting or exceeding 2,500 gallons with SRA turnarounds in close proximity. The project is conditioned that one of the tanks, or an additional 2,500-gallon tank is reserved for fire suppression and is fitted with the appropriate fire hose connection that meets CalFire SRA requirements. No increased threats to fire hazards are anticipated as a result of the project.
- d) The site is accessed via Little Buck Mountain Road, which intersects with Alderpoint Road, and a private drive. The Public Works Department (PW) recommended approval with a condition that the existing on-site driveway be improved to commercial standards as Alderpoint Road is approved by the PW for use by commercial cannabis operations. An encroachment permit has since been issued, and this work has been completed by the applicant's father for his permitted commercial cannabis nursery on APN 223-074-011. The access roads serve both the subject parcel and APN 223-074-011. A Roadway Evaluation Report for the access roads serving both APN 223-074-011 and the subject parcel was prepared for the applicant's father by Trinity Valley Consulting Engineers, Inc. in April of 2019 (Attachment 4C). The report identified several road points in need of repair and/or maintenance and recommendations were made in the report to address these issues. Per a Roadway Evaluation Work Inspection letter from Trinity Valley Consulting Engineers, Inc. dated December 28, 2020 (Attachment 4D), an inspection by Josh McKnight, P.E. showed the work to have been completed adequately in conformance with the Roadway Evaluation Report noted above. Ongoing maintenance is also recommended in the report that is conducted annually by the applicant and his father.

As the project will utilize no more than two employees, it is determined that the project would not result in a significant increase in traffic, and it has been determined that the access roads (with the completed recommended improvements and maintenance) meets the functional capacity for the project's

needs.

6. 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.

7. 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 South Fork Eel Planning Watershed, which under Resolution 18-43 is limited to 730 cultivation permits and 251 acres of cultivation. With the approval of this project the total approved cultivation permits in this Planning Watershed would be 217 permits and the total approved acres would be 84 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 Permits for Flore Farms Inc. subject to the conditions of approval attached hereto as Attachment 1A.

Adopted after review and consideration of all the evidence on September 7, 2023.

I, John 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