

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

Resolution Number 23-

Record Number: PLN-10822-CUP

Assessor's Parcel Number: 210-012-019

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Bridgeville Organic Pharms, LLC, Conditional Use Permit and Special Permit request.

WHEREAS, Bridgeville Organic Pharms, LLC, submitted an application and evidence in support of approving a Conditional Use Permit for the continued operation of an existing 40,025 square foot (SF) outdoor cannabis cultivation and 1,920 SF of ancillary propagation. Irrigation water is currently sourced from a permitted groundwater well on the subject parcel; however, use of the well for cannabis irrigation will be replaced by rainwater catchment for the foreseeable future, with a permitted point of diversion proposed as a potential backup water source. Annual water use is 166,300 gallons and there will be a total of 170,100 gallons of onsite water storage. Drying and processing occurs onsite. A maximum of eight (8) people may be onsite during peak operations. Power is provided by three (3) generators, and there are long-term plans to convert to solar power. A Special Permit is also requested for development within a Streamside Management Area (SMA) related to installation, use, and maintenance of the point of diversion infrastructure; and

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 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 Planning Commission held a duly-noticed public hearing on February 16, 2023, and reviewed, considered, and discussed the application for a Conditional Use Permit and 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 application is a Conditional Use Permit for the continued operation of an existing 40,025 square foot (SF) outdoor cannabis cultivation and 1,920 SF of ancillary propagation. Irrigation water is currently sourced from a permitted groundwater well on the subject parcel; however, use of the well for cannabis irrigation will be replaced by rainwater catchment for the foreseeable future, with a permitted point of diversion proposed as a potential backup water source. Annual water use is 166,300 gallons and there will be a total of 170,100 gallons of onsite water storage. Drying and processing occurs onsite. A maximum of eight (8) people may be onsite during peak operations. Power is provided by three (3) generators, and there are long-term plans to convert to solar power. A Special Permit is also requested for

development within a Streamside Management Area (SMA) related to installation, use, and maintenance of the point of diversion infrastructure.

EVIDENCE: a) Project File: PLN-10822-CUP

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 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 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) A Water Resource Protection Plan (WRPP; WDID 1B161248CHUM), prepared by Pacific Watershed Associates (PWA) in January 2017 in compliance with the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R1-2015-0023, and a Notice of Applicability were submitted by the applicant to show compliance with the State Water Board Cannabis General Order for Waste Discharge. Conditions of approval require development and implementation of a Site Management Plan, and maintain enrollment in the State Cannabis Cultivation Policy for the life of the project.
- d) California Department of Fish and Wildlife Resource Maps indicate the site contains a mapped “North Central Coast Summer Steelhead Stream” (Van Duzen River) within the northern portion of the site, which provides potential habitat for summer-run steelhead trout (*Oncorhynchus mykiss irideus* pop. 36), a state “Candidate Endangered” species and CDFW species of special concern. However, the cultivation area is located within the southern portion of the site, more than 600 feet from the Streamside Management Area (SMA) buffer associated with the Van Duzen River. The nearest NSO activity center is located approximately 0.28 miles from the nearest cultivation area, with the nearest NSO positive sighting located approximately 1.34 miles away. Power is provided by three (3) generators, with long-term plans to convert to solar. Artificial lighting is utilized in the propagation area.

A Biological Resources Study was prepared by Leopardo Wildlife Associates in December 2018, which found the project to be outside the range of the marbled murrelet, but within the range of NSO, although there are no records of NSO nesting within one-quarter mile of the site. During a site survey in October 2018, the noise level of existing onsite generators was found to be “well below” the 60-decibel threshold for disturbance established by the USFWS, and no wetlands and/or other sensitive habitats were found within 175 feet of the project area. No recommendations were included in the Report.

Conditions of approval will require light and noise attenuation measures, specifically requiring noise to be at below 50 decibels at 100 feet which is below the guidance established by the California Department of Fish and Wildlife for protection of the species. Additionally, the project is conditioned to adhere to International Dark Sky Standards for any supplemental lighting used for security or within the nursery area, refrain from using synthetic netting, ensure refuse is contained in wildlife-proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife. As proposed and conditioned, the project is consistent with CMMLUO performance and will not negatively impact NSO or other sensitive species.

- e) The cultivation of cannabis will not result in the net conversion of timberland. A Timber Conversion Evaluation Report was prepared by Blair Forestry Consulting in November 2018, which assesses two (2) distinct conversion sites that total approximately 2.26 acres. Per the Report, timber conversion appears to have begun prior to May 2009 and involved multiple unconnected clearing sites totaling 0.91 acres, which created the initial footprint for both conversion sites. The two sites were slightly expanded in 2010 to approximately 1 acre. Between 2014 and 2016, an additional 0.37 acres were converted to cultivation space and created some connectivity between the prior conversion sites. Sometime prior to May 2018, an additional 0.89 acres was converted, and connected multiple areas that were previously cleared. Three (3) recommendations are included in the Report to bring the past unauthorized conversion activities into compliance with the Forest Practice Rules, and compliance with these recommendations is included as a condition of approval. In addition, the applicant shall consult with a Registered Professional Forester (RPF) to determine and prepare the necessary permit application from CAL FIRE. For any timber conversion determined to have occurred after the CMMLUO baseline date January 1, 2016, a restocking plan shall be prepared within one (1) year of project approval that replaces any trees removed at a 3:1 ratio within a period of two (2) years, and shall include a monitoring and reporting section that requires a minimum of three years of monitoring and an 85% success rate for any revegetation required. No additional tree removal is requested or authorized by this permit.
- f) A Phase I Cultural Resource Inventory Report was prepared by DZC Archaeology & Cultural Resource Management in March 2018. The Report notes that no cultural resources were observed or recorded on the subject property during the survey. Inadvertent Discoveries Protocol was recommended in the Report, as well as by the Bear River Band of the Rohnerville Rancheria in March 2019, in the event of inadvertent discovery of resources onsite, which has been included as an ongoing condition of approval.
- g) A Road Evaluation Report for a 2.6-mile segment of the private road (from State Highway 36 to the subject property) was prepared by Pacific Watershed Associates in May 2018, which indicates the roadway is developed to the equivalent of a road Category 4 standard and is suitable for safe access to and from the project site. Per referral comments received from Caltrans, dated October 2018, it is noted that the road approach to McClellan Mountain Road

must meet commercial standards. Conditions of approval require the applicant to make the required roadway improvements and/or pay their fair-share cost of the necessary improvements, and pay fair-share cost for maintenance of the road.

FINDINGS FOR CONDITIONAL USE PERMIT AND SPECIAL 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 Agricultural Grazing (AG) land use designation. The proposed cannabis cultivation, an agricultural product, is within land planned and zoned for agricultural uses, consistent with the use of Open Space land for managed production of resources. The use of the parcel which allows 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 Agriculture Exclusive (AE) zone in which the site is located.

EVIDENCE a) The Agriculture Exclusive (AE) zone is intended to be applied in fertile areas in which agriculture is and 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) All general agricultural uses are principally permitted in the AE zone.

c) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 43,560 square feet of existing outdoor cannabis and up to 22,000 square feet 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 40,025 square feet of outdoor cultivation on a 70-acre parcel is consistent with this 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 AE (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 by an approved and recorded Parcel Map Subdivision (Parcel 1 of Parcel Map 1906, Parcel Map Book 016, Page 136).

c) Water for irrigation is currently provided by an onsite groundwater well (16/17-1185). The onsite well is also registered with the California Department of Water Resources (WCR2018-005155). Per the Site Plan, the well is located east of the cultivation areas, within the southeastern portion of

the site, approximately 355 feet east from the nearest Streamside Management Area (SMA). According to the Well Completion Report, the well is 240 feet deep and drilled through sandstone, silty clay, and shale. A blank is installed for the first 60 feet of the well, with screening installed for the remaining depth (180 feet) of the well. A hydrological evaluation was not submitted for the well.

Under the project, use of the well for cannabis irrigation is to be replaced by rainwater catchment for the foreseeable future, with the permitted point of diversion as a potential back-up water source. The point of diversion has not yet been installed, as a Special Permit is first required, but is proposed within a Class II intermittent stream within the western portion of the parcel. Conditions of approval require the applicant to cease use of the groundwater well for cannabis irrigation prior to the 2023 cultivation season. Should use of the well for cannabis irrigation be requested by the applicant at a future time, a modification to this permit will be required. Additionally, use of the groundwater well may not occur until a qualified professional assesses the well and determines it is not hydrologically connected to surface waters.

An assessment of the rainwater catchment potential of the proposed rainwater catchment was completed to determine if adequate water supply would be available to serve the project. The applicant is proposing to collect rainwater from the roofs of two (2) existing drying shed structures, totaling 1,200 SF. Based on the impermeable rainwater catchment area of 1,200 SF, and an average rainfall amount of 66.4 inches, the site's potential capture amount totals approximately 49,402 gallons per year, on average. This equates to approximately 66.5% of the total amount of water required for the project on an annual basis (74,263 gallons), or a deficit of 24,861 gallons. As such, the rainwater catchment system, as proposed, would not be sufficient to supply the project's needs on its own.

Regarding the proposed point of diversion, a *Right to Divert and Use Water* (Registration No. H501390, Certificate No. H100100) was issued by the State Water Resources Control Board (SWRCB) in June 2018. The appropriative right allows for 0.31 acre-feet per year (101,014 gallons) to be diverted annually. The total storage capacity shall not exceed 0.31 acre-feet (101,014 gallons). Use of the point of diversion will be subject to the forbearance period of April 1-October 31 prescribed in the Cannabis Policy, in which no water may be diverted during this time. As such, water will need to be diverted during the rainy season (November 1-March 31) for use during the forbearance period. the total estimated annual water usage associated with the project (74,263 gallons) equates to approximately 73.5% of the water appropriated. However, since approximately 66.5% of the project's water demand (or 49,402 gallons) would be supplied by rainwater catchment, it is anticipated the point of diversion would only need to supply the additional 24,861 gallons of water required for the project that is not provided by rainwater catchment (or approximately 33.5% of the project's annual water demand), which is under the maximum amount authorized by the appropriative water right. As such, there would be a sufficient supply of water

from the rainwater catchment system and point of diversion to serve the proposed project, once installed and operational.

Conditions of approval require the applicant to install the rainwater catchment and point of diversion infrastructure and demonstrate the water storage tanks are filled prior to the 2023 cultivation season. Additionally, the applicant shall ensure a maximum of 101,014 gallons of the onsite storage is dedicated to and filled by the point of diversion, in compliance with the appropriative water right, for the life of the project. Additional conditions of approval require the applicant to monitor water use from rainwater catchment system, Class II diversion, and water storage tanks annually to demonstrate there is sufficient water available to meet operational needs.

- d) A Road Evaluation Report for a 2.6-mile segment of the private road (from State Highway 36 to the subject property) was prepared by Pacific Watershed Associates in May 2018, which indicates the roadway is developed to the equivalent of a road Category 4 standard and is functionally appropriate for the expected traffic. Per referral comments received from Caltrans, dated October 2018, it is noted that the road approach to McClellan Mountain Road must meet commercial standards. Conditions of approval require the applicant to make the required roadway improvements and/or pay their fair-share cost of the necessary improvements, and pay fair-share cost for maintenance of the road.
- e) As noted in the Water Resource Protection Plan (WRPP), prepared by Pacific Watershed Associates (PWA) in January 2017, cultivation occurs on graded flats, which are typically indicative of slopes between 0-5%.
- f) The cultivation of cannabis will not result in the net conversion of timberland. A Timber Conversion Evaluation Report was prepared by Blair Forestry Consulting in November 2018, which assesses two (2) distinct conversion sites that total approximately 2.26 acres. Per the Report, timber conversion appears to have begun prior to May 2009 and involved multiple unconnected clearing sites totaling 0.91 acres, which created the initial footprint for both conversion sites. The two sites were slightly expanded in 2010 to approximately 1 acre. Between 2014 and 2016, an additional 0.37 acres were converted to cultivation space and created some connectivity between the prior conversion sites. Sometime prior to May 2018, an additional 0.89 acres was converted, and connected multiple areas that were previously cleared. Three (3) recommendations are included in the Report to bring the past unauthorized conversion activities into compliance with the Forest Practice Rules, and compliance with these recommendations is included as a condition of approval. In addition, the applicant shall consult with a Registered Professional Forester (RPF) to determine and prepare the necessary permit application from CAL FIRE. For any timber conversion determined to have occurred after the CMMLUO baseline date January 1, 2016, a restocking plan shall be prepared within one (1) year of project approval that replaces any trees removed at a 3:1 ratio within a period of two (2) years, and shall include a monitoring and reporting section that requires a minimum of three years of monitoring and an 85% success rate for any revegetation required. No

additional tree removal is requested or authorized by this permit.

- g) 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 off-site residence, more than 600 feet from any school, church, public park or Tribal Cultural Resource.

6. FINDING

The cultivation of 40,025 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 located on road that has been certified to safely accommodate the amount of traffic generated by the proposed cannabis cultivation.
- 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 currently sourced from a groundwater well that has been permitted by the Environmental Health Department and registered with the State Water Resources Control Board. However, use of the well shall cease prior to the 2023 cultivation season. Under the project, use of the well for cannabis irrigation is to be replaced by rainwater catchment for the foreseeable future, with a permitted point of diversion (not yet installed) proposed as a potential back-up water source.
- e) Provisions have been made in the applicant's proposal to protect water quality and thus runoff to adjacent property and infiltration of water to groundwater resources will not be affected.

7. FINDING

To provide minimum standards pertaining to the use and development of land located within Streamside Management Areas (SMAs) and other wet areas (OWA) to implement the County's Open Space Element of the General Plan.

EVIDENCE

- a) Conditions of approval require the applicant to adhere to and implement the projects and recommendations contained in the Final SAA and provide evidence to the Planning Department that the projects included in the Final SAA are completed to the satisfaction of CDFW. Conditions of approval also require the applicant to adhere to the terms and conditions of the Right to Use and Divert Water issued by the State Water Resources Control Board (SWRCB). By implementing permit conditions from the SWRCB and CDFW, impacts to the SMA are minimized.

8. 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.

- a) The parcel was not included in the housing inventory of Humboldt County's 2019 Housing Element and is not currently developed with an existing residence. The approval of cannabis cultivation on this parcel will not conflict with the ability for a residence to be constructed on this parcel.

9. 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 Van Duzen Planning Watershed, which under Resolution 18-43 is limited to 425 permits and 146 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 121 permits and the total approved acres would be 41.06 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 Conditional Use Permit and Special Permit for Bridgeville Organic Pharms, LLC, based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1A and incorporated herein by reference; and

Adopted after review and consideration of all the evidence on February 16, 2023.

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