

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

Resolution Number 24-

Record Number PLN-11638-CUP

Assessor's Parcel Numbers (APN) 223-061-003, 223-061-038, 223-061-039, 223-061-043, 223-061-046, 223-073-004 and 223-073-005

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Conditional Use Permits, Special Permits and Zoning Clearance Certificate for The Hills, LLC and Shadow Light Ranch, LLC.

WHEREAS, The Hill, LLC and Shadow Light Ranch, LLC submitted an application for two Conditional Use Permits, a Zoning Clearance Certificate, and two Special Permits, for a combined project involving 60,940 square feet of pre-existing cannabis cultivation, a commercial cannabis processing facility, a wholesale nursery, and employee housing; and

WHEREAS, the Planning Commission held a public hearing on November 7, 2024 and reviewed, considered, and discussed the application and Conditional Use Permits, Special Permits and Zoning Clearance Certificate applications and the Mitigated Negative Declaration, and considered all public testimony and evidence presented at the hearing; and

Now, THEREFORE BE IT RESOLVED, that the Planning Commission makes all the following findings:

- 1. FINDING:** **Project Description:** Two Conditional Use Permits (CUP) and a Zoning Clearance Certificate (ZCC) for continued cannabis cultivation on the project site and two Special Permits (SP) for commercial cannabis processing and a wholesale nursery in accordance with the County's Commercial Medical Land Use Ordinance (CMMLUO). The commercial cultivation activities seeking to be permitted are 60,940 square feet of pre-existing commercial cannabis, 50,940 square feet of which is outdoor and light deprivation outdoor cultivation and 10,000 of which is mixed-light cultivation. The project includes approving the pre-existing cultivation areas in addition to the relocation and consolidation of existing cultivation areas to environmentally superior locations, with the remediation of the retired cultivation areas. Consolidation and remediation of historic cultivation areas and implementation of

State and local cannabis regulations (e.g. DCC, CDFW, NCRWCB, SWRCB, and County of Humboldt) are intended to improve site conditions from baseline conditions. New development activities associated with this project include greenhouses for existing and relocated cultivation areas, the proposed 10,080 square foot wholesale nursery, which will also support on-site operations, a warehouse processing facility with support office space that would total up to 13,472 square feet, and employee housing of up to approximately 5,184 square feet. Water for irrigation purposes is from an existing permitted groundwater well to be supplemented by rainwater catchment. Water for domestic purposes is from an existing spring. On-site power is currently provided by generators and solar and PG&E power is proposed.

In addition to the cultivation operation, wholesale nursery, processing, operations and employee housing, the proposed project also includes decommissioning and restoration of three (3) existing on-site ponds. Additional project components include obtaining required agency permits through the California Department of Fish and Wildlife (CDFW) and North Coast Regional Water Quality Control Board (NCRWQCB) for drainage improvements completed without the benefit of State agency review. These actions are proposed to satisfy requirements associated with the December 2023 Stipulated Judgement from the Superior Court of California Case No. CV2001113.

EVIDENCE: a) Project File: PLN-11638-CUP, PLN-11642-ZCC, PLN-11643-CUP

2. FINDING: **CEQA** - The Project has been reviewed for potential environmental effects in conformance with the California Environmental Quality Act and the public review provisions of CEQA have been satisfied.

EVIDENCE: a) Humboldt County prepared a Mitigated Negative Declaration to evaluate environmental impacts associated with the proposed project.

b) The Mitigated Negative Declaration (IS/MND) was circulated from September 19, 2024, to October 18, 2024.

c) The IS/MND included twelve mitigation measures which have been

incorporated into a Mitigation Monitoring and Reporting Plan which is being adopted as part of the project.

- d) Pursuant to AB52 under the California Environmental Quality Act, formal consultation was offered to the Bear River Band of the Rohnerville Rancheria. No consultation was requested in response to this AB52 referral outreach.

3. FINDING: ENVIRONMENTAL IMPACTS FOUND TO BE LESS THAN SIGNIFICANT- NO MITIGATION REQUIRED. The following impacts have been found to be less than significant and mitigation is not required to reduce project related impacts: Aesthetics, Air Quality, Geology and Soils, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Mineral Resources, Population and Housing, Public Services, Recreation, Transportation, Utilities and Service Systems, and Wildfire

- EVIDENCE:**
- a) There is no evidence of an impact to any of the above reference potential impact areas based on the project as proposed at this proposed location.
 - b) Initial Study and Mitigated Negative Declaration circulated from September 19, 2024, to October 18, 2024.

4. FINDING: ENVIRONMENTAL IMPACTS MITIGATED TO LESS THAN SIGNIFICANT – The Initial Study identified potentially significant impacts to Agriculture and Forestry Resources, Biological Resources, Cultural Resources, Energy, Noise, Tribal Cultural Resources, and Mandatory Findings of Significance which could result from the project as originally submitted. Mitigation Measures have been required to ensure potential impacts are limited to a less than significant level.

- EVIDENCE:**
- a) **Agriculture and Forestry Resources:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for agriculture and forestry resources:

AFR-1 Oak Woodland Restoration and Replacement

Through incorporation of the above referenced mitigation measure, impacts to forestry resources that have occurred as a result of the

proposed project will be mitigated to a less than significant level.

- b) **Biological Resources:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for biological resources:

BIO-1 Avoid and minimize Impacts to Native Amphibians

BIO-2 Nesting Bird Pre-construction Surveys

BIO-3 Responsible Use of Plastic Netting

BIO-4 No Rodenticides

BIO-5 Invasive Species removal

BIO-6 Wetland Restoration

Through incorporation of the above referenced mitigation measures, impacts to biological resources will be avoided during project construction and operation.

- c) **Cultural Resources & Tribal Cultural Resources:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for Cultural Resources and Tribal Cultural Resources:

CR-1 Avoid Archaeological Site WRA #1

CR-2 Inadvertent Discovery of Cultural Resources

By requiring monitoring for cultural resource discovery during future ground disturbance, potential impacts to these resources can be avoided.

- d) **Energy:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for Energy:

ENE-1 Generator Use

ENE-2 Generator Use

Through incorporation of the above referenced mitigation measures, impacts from inefficient use of energy will be mitigated to a less than significant level.

- e) **Noise:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation

measures for Noise:

NOI-1 Construction Related Noise

Through incorporation of the above referenced mitigation measure, impacts from noise on sensitive receptors will be less than significant.

- f) **Mandatory Findings of Significance:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of all of the above referenced mitigation measures addressing the Mandatory Findings of Significance.

Through incorporation of the twelve mitigation measures included, impacts concerning Mandatory Findings of Significance will be avoided during future remediation, restoration, development, and operation of the site.

5. FINDING:

CEQA Public Comments: There have been comments from the North Coast Regional Water Quality Control Board (NCRWQCB) as well as the California Department of Cannabis Control (DCC). Comments from some members of the public were also received.

EVIDENCE:

- a) Comments from the NCRWQCB indicate that the final restoration plan has not yet received final approval from state agencies, and that the Site Management Plan needs to be updated. NCRWQCB comments indicate that none of the mitigation should need to be changed. The comment regarding the Site Management Plan is addressed through condition of approval A6.
- b) Comments from the Department of Cannabis Control primarily concern recommendations for inclusion or reiteration of information and references that are already found in the IS/MND or are required by state law. Their comments have been considered and do not change the conclusions reached in the Mitigated Negative Declaration.
- c) Comments from the public are related to the use of water and the use of Wallan Road. These comments are addressed in the ISMND and through conditions of approval.

6. FINDING: **Mitigation Monitoring and Reporting Program:** A Mitigation Monitoring and Reporting Program has been prepared in accordance with Section 15097 of the CEQA Guidelines.

EVIDENCE: a) Mitigation Monitoring and Reporting Program included as Attachment 1B.

FINDINGS FOR CONDITIONAL USE PERMITS AND SPECIAL PERMIT

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

EVIDENCE: a) The Applicant is proposing to continue an existing commercial cannabis cultivation operation occurring on lands designated as Agriculture General. General and intensive agriculture are allowable use types for these designations. The project is, therefore, consistent with the AG designation. The project is consistent with the Open Space Plan because the proposed project is consistent with the allowable uses of the Land Use Designations. The proposed cannabis cultivation and accessory support facilities are for an agricultural product, which is within land planned for agricultural purposes, and therefore consistent with the use of Open Space land for management production of resources.

8. FINDING: The proposed development is consistent with the purposes of the existing AE and TPZ zones in which the site is located.

EVIDENCE: a) All of the proposed cannabis activities will be taking place within the AE zoned portions of the property. The proposed cannabis cultivation is specifically allowed with Conditional Use Permit in this zoning district and under Section 314-55.4.8.2.2 of the CMMLUO. The proposed wholesale nursery and processing facilities are allowed under Section 314-55.4.8.4 and 314-55.4.8.7 of the CMMLUO.

b) Humboldt County Code Section 314-55.4.8.2.2 allows cultivation of up to 43,560 square feet of outdoor cannabis cultivation and up to 22,000 square feet of existing mixed-light cultivation on AE zoned parcels over 1 acre in size. The proposed action is two Conditional Use Permits for 60,940 square feet of existing mixed-light cultivation on two legal parcels, each of which is a minimum of 160 acres in size. A review of Google Earth imagery and meetings with the

applicant found the 60,940 square feet of cultivation was in existence prior to January 1, 2016. The cultivation area, type, status, and zoning of the parcel are consistent with the requirements for a Conditional Use Permit. The applicant will comply with all conditions of the CMMLUO, as specified in the recommended conditions of approval.

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

- EVIDENCE:**
- a) The parcels of land are three separate legal parcels as concluded by the Determination of Status (DS) 16-018 approved on September 7, 2016. There is no evidence indicating there have been any subsequent acts to merge or divide these parcels. Therefore, the subject parcels were lawfully created in its current configuration and can be developed as proposed.
 - b) The CMMLUO allows for existing cannabis cultivation to be permitted in areas zoned AE and TPZ. While the property is zoned both AE and TPZ, all proposed cultivation areas are zoned AE.
 - c) Based on a review of aerial imagery and referral agency comments, the cultivation area conforms to the 600-foot setback for schools, school bus stops, parks, or places of religious worship. The cultural study prepared for the project indicated that the cultivation areas were over 600 feet away from any significant cultural resources.
 - d) The project will obtain water for irrigation and support activities through a combination of a groundwater well and rainwater catchment, both of which are eligible water sources under the CMMLUO.
 - e) There are two accessways to the site. One, through Wallan Road, is a publicly maintained roadway which the Department of public Works has stated is functionally equivalent to a road category 4. The other access is from Flat Rock Road and Buck Mountain Road. This access has been reviewed by a registered engineer and found to be the equivalent of a road category 4.

10. FINDING: The continued cultivation of 60,940 square feet of existing cannabis cultivation and the new cannabis wholesale nursery and processing facility 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 roads providing access to the site have been found to be adequate to safely accommodate the amount of traffic generated by the project.
 - 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 sizes in the area.
 - c) Provisions have been made in the applicant's proposal and conditions added to the project to protect water quality and thus runoff to adjacent property and infiltration of water to groundwater resources will not be affected.
 - d) The project is conditioned to require all heavy equipment and larger vehicles with trailer traffic to avoid Wallan Road, which will ensure that there are no adverse impacts to the quality of life from residents on Wallan Road.

11. 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 but does have the potential to support one housing unit. The approval of cannabis cultivation on this parcel will not conflict with the ability for a residence to be permitted on this parcel.

12. FINDING: The proposed use will not impair the continued agricultural use on the subject property or on adjacent lands or the economic viability

of agricultural operations on the site.

EVIDENCE: a) The proposed use is an agricultural use. All accessory support facilities that are proposed will help to support the on-site cultivation of cannabis, which is an agricultural product.

13. 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 in the South Fork Eel River Planning Watershed, which under Resolution 18-43 is limited to 730 permits and 251 acres of cultivation. With the approval of the project the total approved permits in this Planning Watershed would be 305 permits and the total approved acres would be approximately 89 acres of cultivation.

14. FINDING: The use of the well for irrigation purposes will not have any adverse impacts on any public trust resources.

EVIDENCE: a) The well is approximately 1,860 feet northeast of the nearest mapped blue line stream, which is a tributary to Bear Canyon Creek, which feeds into the South Fork of the Eel River and the well is at least 2,000 feet from any other mapped perennial streams. The South Fork of the Eel River provides important public trust resources such as habitat for fisheries, including winter and summer run steelhead trout, and substantial recreational opportunities for swimming, paddling and boating. The elevation of the nearest perennial watercourse is approximately 1,000 feet above sea level, which is nearly 300 feet below the bottom of the screened interval of the well. Based on the distance and the elevation difference between the screened interval of the well and the nearest perennial watercourse, it appears unlikely that the well would have any direct hydraulic connection to these watercourses. The applicant provided an assessment of the well [Hydrologic Isolation of Existing Well from Surface Waters from Lindberg Geologic Consulting dated August 26, 2020, that comes to a similar conclusion and states that the groundwater well is hydrologically disconnected from surface waters. While CDFW has provided comment indicating that they believe the well could be intercepting groundwater that daylights at a wetland approximately 600 feet away, the project is conditioned

to increase rainwater catchment so that the amount of water utilized by the well is miniscule in comparison to the available groundwater in the vicinity. Due to the fact that the well to be used for cannabis irrigation is unlikely to have any direct connection to any perennial watercourses that drain into the Eel River and is therefore unlikely to have any effect on flowrates within those watercourses, the use of the well would have no impact on these important public trust resources associated with the South Fork Eel River.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt Board of Supervisors:

1. Adopt the finding set forth in this resolution; and
2. Adopt the Mitigated Negative Declaration (SCH#: 2024090687) for the Hills, LLC and Shadow Light Ranch, LLC Conditional Use Permits, Special Permit and Zoning Clearance Certificate; and
3. Adopt the Mitigation Monitoring and Reporting Program; and
4. Conditionally approves the Conditional Use Permits, Special Permits, and Zoning Clearance Certificate for The Hills, LLC and Shadow Light Ranch, LLC subject to the conditions of approval attached hereto as Attachment 1.

The motion was made by COMMISSIONER _____ and second by COMMISSIONER _____ and the following vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSENT: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
DECISION:

I, John H. 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 H. Ford, Director
Planning and Building Department