

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

Resolution Number 24-

Record Number: PLN-2024-19054

Assessor's Parcel Numbers: 524-091-009 and 524-101-025

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Organic Liberty CA LLC Conditional Use Permit Modification, Special Permit, and Zoning Clearance Certificates.

WHEREAS, the Humboldt County Planning Commission held a duly-noticed public hearing on July 23, 2020, and approved on consent a Conditional Use Permit (PLN-12376-CUP) for a new 3.3 acre full-sun outdoor cannabis cultivation operation; and

WHEREAS, Organic Liberty CA, LLC applied for a Conditional Use Permit Modification to expand the existing cannabis operation from 3.3 acres to 4 acres and allow mixed-light and light deprivation cannabis cultivation, and to add a Special Permit for non-flammable cannabis manufacturing, and Zoning Clearance Certificates for a commercial cannabis nursery, cannabis processing, and cannabis distribution; and

WHEREAS, a Mitigated Negative Declaration was adopted for the original approved project (PLN-12376-CUP), and a Subsequent Negative Declaration has been prepared for the proposed Conditional Use Permit Modification, Special Permit, and Zoning Clearance Certificates and circulated for public review pursuant to Section 15074 of the CEQA Guidelines; and

WHEREAS, the Humboldt County Planning Commission held a duly-noticed public hearing on December 19, 2024, and reviewed, considered, and discussed the application for the requested Conditional Use Permit Modification, Special Permit, and Zoning Clearance Certificates, 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:** Organic Liberty CA, LLC operates a permitted outdoor cannabis cultivation operation located near the junction of Friday Ridge Road and California State Route 299, south/southeast of the community of Willow Creek. The existing project approval (PLN-12376-CUP) consists of four Conditional Use Permits (CUP16-656, CUP17-042, CUP17-043, and CUP17-044) that allow for ±3.3 acres (143,748 square feet) of outdoor full-sun cannabis cultivation. Organic Liberty CA, LLC proposes a modification to the approved permits to adjust the cultivation boundary and expand the cultivation

area by ±0.7 acres (±4 acres total). As a result of the Project, cultivation at the facility would now comprise ±2.4 acres of outdoor full-sun cultivation in raised beds, ±0.7 acres (31,500 square feet) of outdoor light deprivation cultivation in hoop houses, and ±0.9 acres (37,900 square feet) of mixed-light cultivation in greenhouses. In addition, Organic Liberty CA, LLC requests Zoning Clearance Certificates for commercial cannabis nursery, cannabis processing, and cannabis distribution, and a Special Permit for non-flammable cannabis manufacturing, all within new steel buildings (±11,700 square feet). Water is sourced from three wells and 12 5,000-gallon rain catchment tanks. 2,264,664 gallons of water will be required each year for irrigation.

EVIDENCE: a) Project Files: PLN-12376-CUP and PLN-2024-19054

2. FINDING: **CEQA:** As required by the California Environmental Quality Act, the project was found subject to CEQA. An Initial Study was prepared that found that the Project could not have a significant effect on the environment and a Negative Declaration was prepared by the Planning and Building Department, Planning Division (Attachment 2).

EVIDENCE: a) The CEQA document includes an analysis of the proposed Project. The Initial Study and Draft Negative Declaration (IS/ND) was circulated from October 15, 2024, to November 13, 2024.

3. FINDING: **CEQA Public Comments:** There was one specific comment/recommendation from the California Department of Cannabis Control on the IS/ND (see below and Attachment 8).

“The IS/ND would be more informative if it provided a Source List for the references. For referenced documents, the author, title, and date of each document could be provided. For personal communications, the agency or organization, person contacted, date of contact, and method of contact should be provided. For websites, the URL and date visited should be provided.”

EVIDENCE: a) This comment has been considered and does not change the conclusions of the IS/ND.

FINDINGS FOR CONDITIONAL USE PERMIT MODIFICATION, SPECIAL PERMIT, AND ZONING CLEARANCE CERTIFICATES

4. 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 use types principally permitted in the Residential Agriculture (RA) land use designation in which the site is located. The proposed cannabis cultivation and support facilities are 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 activities 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) As depicted on the Site Plan, there are two naturally occurring seasonal drainages that occur just east of the Project site. All cultivation activities and respective infrastructure would be located outside of the required Streamside Management Area (SMA) buffers of these drainages.

The Project site's hydrology has been historically altered by the stormwater drainage from Friday Ridge Road (to the west) being diverted onto site's existing hillslope. A portion of the Friday Ridge Road stormwater runoff is conveyed through an in-board roadside ditch diverting water east under the road through a culvert into the Project area on the south side of the main entry and east-west site access road. On the northwest side of the Project area an existing ditch conveys intercepted runoff around the project site so that it does not run onto the Project area. Existing slopes across the site range from 4 to 15 percent with runoff generally flowing from west to east.

The Project site is currently enrolled (WDID:1_12CC428884) in the State Water Resources Control Board (SWRCB) General Waste Discharge Requirements and Waiver of Waste Discharge Requirements for Discharges of Waste Associated with Cannabis Cultivation Activities (Order WQ 2019-0001-DWQ).

A licensed engineer was retained to prepare a Preliminary Hydrology Report (Attachment 2 – Appendix D) to assess of existing and

proposed drainage conditions, including recommendations for stormwater control measures. Runoff from new impervious surfaces will be managed through the use of a rainfall catchment system. The required storage volumes have been sized to hold the estimated runoff volumes for each group of structures plus an additional 20% safety factor. Based on the hydrology assessment, a total of twelve 5,000-gallon tanks have been incorporated into the project design to retain site runoff.

- c) The Initial Study/Mitigated Negative Declaration prepared for the original approved project (2020 MND) (Attachment 6) found that the existing outdoor cannabis operation would have a less than significant impact to candidate, sensitive, or special status species, sensitive natural communities, riparian habitats, federally protected wetlands, and migratory wildlife corridors with the implementation of site-specific mitigation measures. The Project is proposed within the existing permitted project boundary. The site is a fenced active cannabis operation with areas of proposed modification or expanded uses being largely disturbed. The Project will continue to observe a 50-foot setback from the top of bank or edge of riparian dripline (whichever is greater) of mapped ephemeral watercourses, consistent with the requirements of WQ 2019-0001-DWQ and the County's Streamside Management Areas and Wetland Ordinance. Further, The Project will also adhere to the water quality requirements of WQ 2019-0001-DWQ and the County's Ordinance 2.0 performance standards. This includes requiring that fertilizers and pesticides/herbicides be applied consistent with product labeling and managed to ensure that they will not enter or be released into surface or groundwater. More specifically, all fertilizers and pesticides will be applied at agronomic rates and stored within covered storage container so as to prevent their transport into surface waters. In addition, soils will be stored within designated soil storage areas designed with either concrete or wooden containment features.

The Project proposes to realign 280 linear feet of existing fencing and construct 128 linear feet of new perimeter fencing around a currently unfenced portion of the existing permitted project boundary. These fences and all Project elements will continue to observe a 50-foot setback from the top of bank or edge of riparian dripline and would not interfere with general movement corridors on the vast majority of the Project parcels which are located outside the Project area (e.g., the Project area occurs on ~1% of the larger 400-acre parcel).

In order to determine whether the proposed project could potentially result in new or different impacts than what was analyzed in the 2020 MND, an updated Biological Resources Evaluation (Attachment 2 – Appendix J) was prepared by a qualified biologist (Stringer; July 2024). The updated Biological Resources Evaluation concludes the following:

- **Special-Status Plant Species:** The project area generally lacks suitable habitat for special-status plants due to the existing level of disturbance. No special-status plant species were observed in the project area during focused botanical surveys conducted by SHN (SHN 2020) or during the biological reconnaissance survey conducted in support of the updated report, which included a complete inventory of vascular plants that were evident and identifiable at the time of the survey. Based on the site conditions, combined with the lack of any detections of special-status plants during numerous biological surveys, it was concluded that no special-status plant species are present in the project area and no impacts to special-status plants are anticipated as a result of the proposed project.
- **Special-Status Animal Species:** No special-status animal species were observed in the project area during multiple biological surveys conducted by SHN in 2017 and 2020 (SHN 2020). Additionally, no special-status animal species were observed in the project area during the biological reconnaissance survey conducted in support of the updated report. Due to the existing habitats and level of disturbance, the project area does not provide habitat for the majority of the regionally-occurring special-status species. The following special-status animal species were identified as having the potential to occur in the project area: white-headed woodpecker, red-breasted sapsucker, hoary bat, silver-haired bat, long-eared myotis, Yuma myotis, and fringed myotis. None of these species have any federal or state listing status but are tracked by the California Natural Diversity Database. In addition, the project area provides nesting habitat for a variety of migratory birds and other native birds. The updated biological resources evaluation found that impacts to animal species with the potential to occur are adequately mitigated through continued adherence to the existing conditions of approval pertinent to the protection of

biological resources, including pre-operation bird surveys and special-status animal surveys.

- Impacts to the Oregon white oak woodland habitat in the project area should be avoided. Consistent with the existing project approvals, the proposed project has been designed to avoid impacts to white oak woodland areas, as no white oak trees will be removed.

Potential impacts to candidate, sensitive, or special status species, sensitive natural communities, riparian habitats, federally protected wetlands, and migratory wildlife corridors would be less than significant with continued implementation of the biological resource mitigation measures adopted in connection with the 2020 MND and Mitigation Monitoring Report.

- d) In 2018, a Cultural Resources Investigation was prepared for the Existing Operation by Archaeological Research and Supply Company (updated April 2020). The investigation included a records search through the California Historical Resources Information System's regional Northwest Center (NWIC), Native American Heritage Commission (NAHC) inquiry, coordination with local tribes, and pedestrian survey of the site. In addition, Bob Benson of the Tsungwe tribe conducted a field visit with Archaeological Research and Supply Company in May 2018.

No historic or prehistoric resources were identified during the investigation. There is one ethnographic village site (Tsunungwe village site) that is eligible for the California Registry of Historic Places on the adjacent parcel to the south of the current Project area, however; no artifacts or associated cultural resources were identified as a result of the investigation. The site has been subjected to past activities that may have disturbed evidence of prehistoric use.

The cultural resources study concluded that the site development will not impact significant historic or prehistoric archaeological resources as a result of ground disturbances if a heightened inadvertent discovery protocol is implemented, which is a current condition of approval. This conclusion is still applicable as the Project and all of its elements are proposed within the existing approved permit boundary.

5. FINDING: The proposed development is consistent with the purposes of the Agriculture General (AG) and Special Combining Zone (B) zoning designations in which the site is located.

- EVIDENCE:**
- a) The AG zone is intended to be applied in areas in which agriculture is the desirable predominant use and rural residential uses are secondary. General agriculture is a principally permitted use in this zoning district. The B zone is intended to be combined with any principal zone in which sound and orderly planning indicate that lot area and yard requirements should be modified. In this case, the B Zone requires a 5-acre minimum parcel size. The subject parcel is approximately 400 acres.
 - b) Section 314-55.4.6.1.1.2(c) of Humboldt County Code (HCC) allows on parcels 320 acres or larger in size, up to one acre of cultivation area per 100-acre increment subject to approval of a Conditional Use Permit provided that the site is accessed off a Category 4 Road. The subject parcel is approximately 400 acres in size and is accessed off Friday Ridge Road, a Category 4 Road.
 - c) Section 314-55.4.8.2.2(c) of HCC allows manufacturing activities involving non-flammable extraction in the AG zone with approval of a Special Permit provided that the site is accessed off a Category 4 Road. The site is accessed off Friday Ridge Road.
 - d) Section 314-55.4.7.1 of HCC allows cannabis distribution, commercial processing, and commercial nurseries in the AG zone with a Zoning Clearance Certificate provided that the site is accessed off a Category 4 Road. The site is accessed off Friday Ridge Road.
 - e) All existing and proposed development meets the minimum yard setback requirements for the AG zone.

6. FINDING: The proposed development is consistent with the requirements of the CCLUO Provisions of the Zoning Ordinance.

- EVIDENCE:**
- a) The CCLUO allows cannabis activities to be permitted in areas zoned AG as described in Section 5 above.
 - b) The subject parcel is a separate legal parcel per Notice of Lot Line Adjustment and Certificate of Subdivision Compliance, Recorded February 3, 2021, Doc. #2021-002549.

- c) Renewable power will be provided by Redwood Coast Energy Authority or a suitable equivalent source with emergency generators as back-up only.
- d) Irrigation water is sourced from non-diversionary wells on site.
- e) Cultivation will occur on slopes of 15% or less.
- f) The cultivation of cannabis will not result in conversion of timberland.
- g) All new cultivation and proposed development will occur outside of areas classified as having prime agricultural soils.
- h) The location of the new cannabis cultivation and proposed development is more than 300 feet from the nearest off-site residence and more than 270 feet from any undeveloped parcel.
- i) The project site is accessed off a County-maintained Category 4 Road.
- j) All use of supplemental lighting will comply with International Dark-Sky Standards
- k) The applicant has submitted a Noise Impact Study, which describes noise measurements taken at the north, south, and east property lines. The existing average ambient decibel levels at the north, south, and east property lines when measurements were taken were 55.7, 65.5, and 59.9 respectively. The project is conditioned to not to exceed three decibels above the measured ambient noise levels found at each property line for the life of the project.
- l) Soils used for cultivation will be refortified after harvest by means of regenerative farming practices so that it may be used again for future cultivation, and the cycle repeated as many times as feasible to minimize the amount of imported soil necessary. In the event that soil cannot be reused, it will be disposed of appropriately as solid waste in compliance with state and local law.
- m) An Invasive Species Control Plan was prepared for the Project. A field survey was conducted, and observations of any invasive species present were recorded. A total of 18 invasive species were identified primarily within the walkways of raised beds. Management and removal recommendations were provided for each of the 18 invasives species identified and included a variety of biological (e.g.

reintroduction of native species) and mechanical (e.g. mowing, tillage, grazing, and hand pulling) control methods. The Project will incorporate the recommendations of the Invasive Species Control Plan.

7. FINDING: The project 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 project site is accessed off a County-maintained Category 4 Road.
 - 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 activities 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 the Project on this site will not change the character of the area due to the large parcel sized in the area.
 - c) The location of the new cannabis cultivation and proposed development is more than 300 feet from the nearest off-site residence and more than 270 feet from any undeveloped parcel.
 - d) Irrigation water is sourced from non-diversionary wells on site.
 - e) Provisions have been made in the applicant's proposal to protect water quality through yearly site inspection, monitoring, and reporting to the NCRWQCB. Annual reporting shall be submitted to the NCRWQCB. Therefore, runoff to adjacent property and infiltration of water to groundwater resources will not be adversely affected.

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.

- EVIDENCE:**
- a) The parcel was not included in the 2019 County Housing Inventory and is currently developed with a single-family residence. The proposed Project will not preclude development of an additional residence in the future.

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 in the Lower Trinity Planning Watershed, which under Resolution 18-43 is limited to 169 permits and 58 acres of cultivation. With the approval of this project the total approved permits for cultivation in this Planning Watershed would be 74 and the total approved acres of cultivation would be 38.5.

10. FINDING: The common law Public Trust Doctrine protects sovereign lands, such as tide and submerged lands and the beds of navigable waterways, for the benefit, use and enjoyment of the public. These lands are held in trust by the State of California for the statewide public and for uses that further the purposes of the trust. The hallmark of the Public Trust Doctrine is that trust lands belong to the public and are to be used to promote publicly beneficial uses that connect the public to the water.

EVIDENCE: a) The Project sources water from three permitted wells on the parcel. The wells will be used for combined maximum of approximately 2,264,664 gallons per year. The locations of the wells are at 40.8883 latitude, -123.6087 longitude (Well 1), 40.8902 latitude, -123.6205 longitude (Well 2), and 40.8897 latitude, -123.6201 longitude (Well 3), and approximately 730-, 1,375-, and 1,380-foot elevation above sea level, respectively. Well 1 has a depth of 220 feet, is screened from 40 to 220 feet and yields approximately 5 gallons per minute. Well 2 has a depth of 220 feet, is screened from 120 to 220 feet and yields approximately 15 gallons per minute. Well 3 has a depth of 200 feet, is screened from 80 to 200 feet and yields approximately 20 gallons per minute.

The nearest surface water features to Well 1 are approximately 680 feet to the southeast and approximately 1,400 feet to the east. The watercourse 680 feet to the southeast appears to be an intermittent watercourse based on a review of County GIS and CDFW stream mapping data. This watercourse is located at approximately 90 feet below the elevation of the well head of Well 1. The further watercourse to the east is the Trinity River. The Trinity River is approximately 270 feet below the elevation of the well head of Well 1. The intermittent watercourse to the southeast would therefore be within the screening interval of Well 1 and the Trinity River would be 50 feet in elevation below the screening interval of Well 1.

The nearest surface water features to Well 2 and Well 3 (which are within 200 feet of each other) are approximately 480 feet to the north and approximately 2,000 feet to the southeast. Both watercourses appear to be intermittent watercourses based on a review of County GIS and CDFW stream mapping data. The watercourse to the north is located at approximately 75 feet below the elevation of the well head of Well 1. The further watercourse to the southeast is approximately 440 feet below the elevation of the well head of Well 2. Therefore, the watercourse to the north would be 45 feet above the screening interval of Well 1 and the watercourse to the southeast would be 240 feet below the screening interval of Well 3.

The intermittent watercourses may contain salmonid habitat, and the watercourses feed into Trinity River which contains salmonid habitat and important public trust resources like fishing, navigation, and recreational opportunities. The elevation difference between the water bearing units and/or the distance to these watercourses is great enough to likely preclude any direct connection between the wells and the stream flows, and therefore the use of the wells is unlikely to have any substantial adverse impact on flow rates.

Based on the facts outlined above, the groundwater wells will not interfere with the Public Trust or substantially impair the public rights to navigation, fisheries, or water related activities or access.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Planning Commission does hereby:

- Adopt the Negative Declaration for the Organic Liberty CA, LLC Conditional Use Permit Modification, Special Permit, and Zoning Clearance Certificates; and
- Adopt the findings set forth in this resolution; and
- Approve the Conditional Use Permit Modification, Special Permit, and Zoning Clearance Certificates for Organic Liberty CA, LLC subject to the Conditions of Approval attached hereto as Attachment 1A; and

Adopted after review and consideration of all the evidence on **December 19, 2024**.

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