

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

Resolution Number 23-

Record Number PLN-13169-CUP

Assessor's Parcel Numbers: 524-114-007

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Willow Creek Ventures, LLC, Conditional Use Permit & Special Permit.

WHEREAS, Willow Creek Ventures, LLC, submitted an application and evidence in support of approving a Conditional Use Permit for the continued operation of an existing 20,000 square feet (sq. ft.) of outdoor cultivation, and appurtenant nursery & drying activities; and a Special Permit for a reduced setback to Public Lands;

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 January 5, 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:

FINDING: **Project Description:** The application is a Conditional Use Permit for 20,000 sq. ft. existing outdoor cannabis cultivation and 1,902 sq. ft. of ancillary propagation. Water source is a permitted well (Permit #11/12-1271). Estimated annual water usage is 337,364 gallons (15.4 gal/sq. ft./yr.). Water storage of 12,500 gallons exists in five (5) 2,500-gallon tanks, and three (3) 2,500-gallon tanks are proposed for a total of 20,000 gallons of water storage on-site. Power will be sourced by a 2,500-Watt solar array with one emergency backup generator. Processing will occur off-site at a licensed processing facility. The site will utilize a maximum of four (4) workers on-site during peak season. The project also includes a Special Permit to approve cultivation within 600 feet of Public Lands, the Six Rivers National Forest (SRNF).

EVIDENCE: Project File: PLN-13169-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) The applicant is proposing to utilize an existing permitted well (Permit #11/12-1271) for water source. The applicant has obtained a Well Assessment Report for the well prepared by licensed geologist David Lindberg, dated October 13, 2022, which found that the well has a low likelihood of being hydrologically connected to nearby surface waters in any manner that could affect adjacent springs, wetlands and or surface waters near the subject well.
 - d) The applicant has enrolled in the State Water Resources Control Board's (SWRCB) General Order for Water Quality No. WQ 2019-001-DWQ. A Notice of Applicability letter was received by the applicant, dated March 5, 2020, showing proof of enrollment under WDID 1_12CC419487. The applicant is required to have a Site Management Plan (SMP) prepared for the site to show compliance with and mitigation measures required for the site to meet the General Orders standard conditions.
 - e) The Cultivation & Operations Plan states that there are no culverts or stream crossings on the site. The applicant is not required to obtain a Lake or Streambed Alteration (LSA) Agreement with the California Department of Fish & Wildlife (CDFW) if there are no culverts or stream crossings on-site that require remediation.
 - f) There is no designated habitat on-site for rare threatened or endangered plant or animal species according to the California Natural Diversity Database (CNDDDB). There is a Northern Spotted Owl (NSO) activity center on the subject parcel, which is approximately 0.44 miles to the nearest cultivation area. The applicant has obtained a Northern Spotted Owl Scoping Report (NSOSR) prepared by Wildlife Biologist Jack Henry with Pacific Watershed Associates, dated December 13, 2021. The NSOSR states that no NSO detections have occurred within the owl territory since 2017 with barred owls being detected the last four years. As the project does not propose any new construction, ground

disturbance, or vegetation removal, power will mainly be provided a solar array, and with the applied recommended mitigation measures for covering the lighted nursery, it has been determined that the project would not result in the take of NSO.

- g) It appears that some unauthorized timber conversion occurred on the site between 2009 and 2016. The project was referred to CalFire and no response was received. The applicant had a Timber Conversion Evaluation Report (TCER) prepared by RPF Chris Carroll with Timberland Resource Consulting, dated December 4, 2019. The TCER states that 1.6 acres of conversion area was converted under Conversion Exemption 1-12EX-226-HUM through historic timber operations that occurred on-site. There are a total of three conversion areas that were evaluated on the site, and there was approximately 0.44 acres of timberland converted post-2016 at Cultivation Site 1. The applicant is required to restock the 0.44 acres of post-2016 timber converted area on a 1-1-basis.
- h) The project site is located within the Tsnungwe and Hoopa Aboriginal Ancestral Territories. The project was referred to the Hoopa Valley Tribe and the Northwest Information Center (NWIC) on September 20, 2017, and to the Tsnungwe Council on March 12, 2019. Comments were received from the NWIC on January 25, 2018, recommending that the local Native American tribes be contacted regarding traditional, cultural, and religious heritage values. Comments were received from the Tsnungwe Council on March 27, 2019, requesting a Cultural Resource Investigation (CRI). The applicant obtained a CRI prepared by William Rich with William Rich and Associated, dated July 2021, which found that no tribal cultural resources were found within the project area. The CRI was submitted to the Tsnugwe Council, and comments were received on September 3, 2021, stating that they had no concerns regarding the proposed project. The applicant shall adhere to Inadvertent Discovery Protocols for the life of the project.
- i) Access to the project site is from Forest Service Route 6N06, from county maintained Friday Ridge Road. The project was referred to the Department of Public Works on September 20, 2017, and comments were received by the agency on April 26, 2018 recommending that the project be referred to the US Forest Service due to the use of Forest Service roads. The project was referred to the SRNF on March 4, 2019, and comments were received on March 6, 2019. The SRNF recommended denial for the project as transportation of cannabis product across National Forest lands is illegal. As the access road is partially County maintained, and partially US Forest Service road, the applicant is not required to upgrade sections of the road that are US Forest Service road. The applicant shall be aware that the Federal

Government considers the cultivation of cannabis to be an illegal activity.

The site will mainly be owner operated, but the applicant plans to have a maximum of four (4) workers on-site, which will be used during planting and harvesting activities for up to two (2) weeks out of the year. The applicant anticipates a maximum of fourteen (14) vehicle trips per week during the two weeks that additional workers are on the site. As the site is pre-existing, no increase in traffic is anticipated, and it has been determined that the road meets the functional capacity needs for the project.

FINDINGS FOR CONDITIONAL USE PERMIT & 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 Timberland (T) 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.

4. FINDING The proposed development is consistent with the purposes of the existing TPZ zone in which the site is located.

EVIDENCE a) The Unclassified or TPZ 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 TPZ 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 sq. ft. of existing mixed-light cannabis on a parcel zoned TPZ over 1 acres 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 20,000 sq. ft. of outdoor cultivation on a 144-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 TPZ (HCC 314-55.4.8.2.2).
 - b) The subject parcel was created by Patent recorded September 15, 1904.
 - c) The project will obtain water from a permitted well (Permit #11/12-1271). The applicant has obtained a Well Assessment Report for the well prepared by licensed geologist David Lindberg, dated October 13, 2022, which found that the well has a low likelihood of being hydrologically connected to nearby surface waters in any manner that could affect adjacent springs, wetlands and or surface waters near the subject well.
 - d) Access to the project site is from Forest Service Route 6N06, from county maintained Friday Ridge Road. As the access road is partially County maintained, and partially US Forest Service road, the applicant is not required to upgrade sections of the road that are US Forest Service road. The site will mainly be owner operated, but the applicant plans to have a maximum of four (4) workers on-site, which will be used during planting and harvesting activities for up to two (2) weeks out of the year. The applicant anticipates a maximum of fourteen (14) vehicle trips per week during the two weeks that additional workers are on the site. As the site is pre-existing, no increase in traffic is anticipated, and it has been determined that the road meets the functional capacity needs for the project.
 - e) The applicant had a Timber Conversion Evaluation Report (TCER) prepared by RPF Chris Carroll with Timberland Resource Consulting, dated December 4, 2019. The TCER states that 1.6 acres of conversion area was converted under Conversion Exemption 1-12EX-226-HUM through historic timber operations that occurred on-site. There are a total of three conversion areas that were evaluated on the site, and there was approximately 0.44 acres of timberland converted post-2016 at Cultivation Site 1. The applicant is required to restock the 0.44 acres of post-2016 timber converted area on a 1-1-basis.
 - f) The location of the cultivation complies with all setbacks required in Section 314-55.4.11.d. It is more than 30 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.
 - g) The project area is located within 600 feet of Public Lands, the Six Rivers National Forest (SRNF). The nearest proposed cultivation area to the SRNF lands is located in the southeast corner of the property. The applicant is requesting a Special Permit to approve a setback reduction from the SRNF parcel boundary to approximately 100 feet to the nearest cultivation area. The project was referred to the SRNF on March 4,

2019, and comments were received on March 6, 2019. Comments from the SRNF included a general letter with the recommendation of denial due to the use of US Forest Service roads, and a parcel survey was requested to ensure that the operations are not trespassing upon or causing impacts to federal lands. There is a Record of Survey on file for the U.S. Department of Agriculture Forest Service, which shows that there is a survey marker located at the southeast corner of the property. A request was made to the applicant to provide data verifying that the proposed cultivation area in the southeast corner of the property is not encroaching onto Federal Lands. Photos were taken of the property survey marker and a tape measure verifying that the southeast cultivation area is approximately 110 feet to the survey marker.

The adjacent public land is subject to the Land and Resource Management Plan - Six Rivers National Forest 1995 (L&RMP). The project is consistent with the L&RMP because the cultivation activities will minimize impacts to biological resources and wildlife through measures to reduce potential light and noise impacts. The applicant obtains power from an on-site solar array, and all cultivation is outdoor and no lights are used. The project is consistent with recreational use on public lands as the proposed project is not located near developed campgrounds, trails, or other related facilities.

6. FINDING

The cultivation of 20,000 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 in a rural part of the County where the typical parcel size is over 70 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.
- b) Irrigation water will come from a permitted well (Permit #11/12-1271).
- c) The project site is in an area known to have Very High Fire Hazard Severity. The applicant is proposing to have two (2) 2,500-gallon tanks designated for fire suppression, and there is room on-site for a firetruck turnaround. The designated fire suppression tanks shall have the appropriate fire hose that meets CalFire SRA requirements.

- d) Access to the project site is from Forest Service Route 6N06, from county maintained Friday Ridge Road. As the access road is partially County maintained, and partially US Forest Service road, the applicant is not required to upgrade sections of the road that are US Forest Service road. The site will mainly be owner operated, but the applicant plans to have a maximum of four (4) workers on-site, which will be used during planting and harvesting activities for up to two (2) weeks out of the year. The applicant anticipates a maximum of fourteen (14) vehicle trips per week during the two weeks that additional workers are on the site. As the site is pre-existing, no increase in traffic is anticipated, and it has been determined that the road meets the functional capacity needs for the project.

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

- 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 constructed on this parcel.

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

- a) The project site is located in the South Fork Trinity Planning Watershed, which under Resolution 18-43 is limited to 86 permits and 29 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 24 cultivation permits and the total approved acres would be 10.9 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 & Special Permit for Willow Creek Ventures, 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 **January 19, 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