

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

Resolution Number: 24-

Record Number: PLN-11281-CUP

Assessor's Parcel Number: 316-071-004

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Ghost Ship Investments, LLC Conditional Use Permit request.

WHEREAS, Ghost Ship Investments, LLC, submitted an application and evidence in support of approving a Conditional Use Permit for continued cultivation of 25,758 square feet of outdoor cultivation and 21,942 square feet of mixed-light cultivation for a total of 47,700 square feet of pre-existing cannabis cultivation. The site includes 4,777 square feet of propagation area in three nursery hoop houses. A setback reduction from public lands is included in this request, and

WHEREAS, the County Planning Division, the lead agency, prepared an Addendum to the Final 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. 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 18, 2024, and reviewed, considered, and discussed the application for a Conditional Use 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: A Conditional Use Permit for 25,758 square feet of outdoor cultivation and 21,942 square feet of mixed-light cultivation for a total of 47,700 square feet of pre-existing cannabis cultivation. The site includes 4,777 square feet of propagation area in three nursery hoop houses. All water for cultivation is sourced from a permitted, groundwater well. Existing available water storage is 147,000 gallons in a series of hard-sided tanks. Estimated average annual water usage is believed to be 346,500 gallons however as much as 480,000 gallons may be utilized depending on circumstances. Drying and curing occurs onsite in an existing multi-use shed, with all other processing occurring offsite at a licensed processing or manufacturing facility. Power is provided by five (5) generators, with PG&E utilized for the water pump. The project is conditioned to transition to PG&E or on-site renewable energy by January 1, 2026. A setback reduction from public lands is requested to allow for the existing cultivation area on the south to be less than 600 feet from public lands (570 feet).

EVIDENCE: a) Project File: PLN-11281-CUP

- 2. FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Planning Commission 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 that has been prepared for the Ghost Ship application.

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 subject parcel has previously had historic logging operations in the project area. The historically logged area has developed legacy logging roads and landings throughout the project site. The existing developed areas are utilized for the cannabis cultivation operations. The SMP identifies twenty-six (26) areas requiring remediation, including installation of erosion control features, stream crossing installation and maintenance, trash, domestic wastewater, and cultivation related waste. Conditions of approval require the applicant to implement any remaining corrective actions and Best Practical Treatment or Control (BPTC) measures and follow all monitoring requirements identified in the SMP to minimize any potential impacts associated with the project and minimize runoff into nearby SMAs.

In addition, a Technical Memorandum (APN 316-071-004 Erosion Remediation (Sexton Property)) was prepared by Stillwater Sciences, dated 5/30/17 (Attachment 4C), to assess the roads and culverts on the subject parcel and develop a remediation plan that decreases sediment delivery to Willow Creek and surrounding tributaries. The subject parcel is located in mountainous terrain with steep slopes (30%-70%) supporting conifer and hardwood stands. It is stated in the Technical Memorandum that evidence of slope instability within the Quaternary unit located along the northern extent of the property directly adjacent to State Highway 299 was observed. Stillwater Sciences inspected thirteen (13) road/stream crossings and one (1) well location, and the Technical Memorandum includes recommendations for numerous improvements on the subject site. As a condition of approval, the applicant shall implement all remaining erosion prevention improvements, culvert upgrades, and Best Management Practices (BMPs) identified in the Technical Memorandum.

Furthermore, a Final Streambed Alteration Agreement (SAA; Notification No. 1600-2019-0420-R1) was issued by the California Department of Fish and Wildlife (CDFW) in December 2017 (Attachment 4A; 4B). Included under the Final SAA are fourteen (14) encroachments to unnamed tributaries to Willow Creek, with twelve (12) of the encroachments to upgrade or decommission existing stream crossings and two (2) encroachments are to

remediate stream alterations associated with a notice of violation. Work for these encroachments is to include excavation, culvert removal, culvert installation, backfilling and compaction of fill, rock armoring as necessary to minimize erosion, and revegetation. These improvements have been completed and CDFW issued a notice that no further LSAA was required.

- d) The nearest known Northern spotted owl (NSO) positive observation site is greater than 0.5 miles from the cultivation site and the cultivation site is located approximately 0.37 miles from the nearest NSO activity center. The project proposes mixed-light cultivation and is conditioned to ensure any lighting adheres to Dark Sky Association standards. As previously described, power is currently provided by five (5) generators, although the applicant has long-term plans to switch to PG&E. Conditions of approval require the applicant to submit an energy use plan that describes the power demand for the project that includes a description of what power is required for (e.g., propagation, cultivation, and processing) and how much power is required on a monthly and annual basis. The energy plan shall also include a description of the generator(s) used to meet the power demand and state how the size of the generator is reasonable based on the power demand. The generator(s) used to support operations shall not be larger than required to meet operational needs. The plan shall also describe how the operation will transition to use of 80% renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026.

Additional conditions of approval require the applicant to refrain from using synthetic netting, ensure refuse is contained in wildlife-proof storage, and refrain from using anticoagulant rodenticides to further protect wildlife. Additional measures that would also protect biological resources are identified in the SMP prepared for the project and include drainage, runoff, and erosion control; watershed and habitat protection measures; and proper application, storage and disposal of fertilizers, pesticides, herbicides, and petroleum products. The project has a dedicated shed for fuel and nutrients near the cultivation area, as shown on the Plot Plan Map for Phase 1. Per the SMP, fertilizers, pesticides, and herbicides are applied at agronomic rates specified on the product label and the applicant keeps a log of their fertilizers, pesticides and herbicides use for annual reporting to the SWRCB. No trash or debris will be allowed to enter a watercourse or riparian setback area. The location of compostable cultivation waste is stored in a location and manner where it cannot be transported to surface waters. As proposed and conditioned, the project is consistent with CMMLUO performance standards and CDFW guidance and will not negatively impact NSO or other sensitive species.

- e) The subject parcel has previously had historic logging operations in the project area. The historically logged area has developed legacy logging roads and landings throughout the project site. The existing developed area were utilized for the cannabis cultivation operations.
- f) The project is within the historic aboriginal territory of the Bear River Band of the Rohnerville Rancheria and the Intertribal Sinkyone Wilderness

Council. The project was referred to the Northwest Information Center at Sonoma State and sent emails requesting information to the Bear River Band of the Rohnerville Rancheria, the Hoopa Valley Tribe, and the Tsnungwe Council in August 2017. The requests for information resulted in no comments regarding any known archaeological or cultural sites on the subject property. A Tribal Elder and Councilperson for the Tsnungwe Tribe requested Archaeological Research Supply and Company provide any information regarding newly recorded cultural resources should any be located during the surface investigation. As of November 2, 2022, no other responses have been received. A Cultural Resources Investigation (dated November 2022; on file and confidential) was performed by Archaeological Research Supply and Company, in which no cultural resources were identified and included the standard inadvertent discovery protocol. The Report recommended inclusion of the standard inadvertent discovery protocol, which has been incorporated into the project as an informational note. The Report found one (1) historic isolate was identified during the archaeological survey. However, the historic isolate is located outside of the Area of Potential Effect (APE) and will remain unaffected by the project activities.

- g) The parcel is located directly off of State Highway 299 via a private driveway. An encroachment permit was issued by the California Department of Transportation (Caltrans) in January 2021 (Attachment 4G), which identifies ownership and responsibility for the maintenance of the existing commercial driveway accessed off of State Highway 299. If there is need for any future work will need a State issued encroachment permit. If the Applicant proposes any changes of the road connections and conditions an encroachment permit for the alternate use and may be subject to additional road maintenance improvements. The Site Management Plan (SMP) prepared by Green Road Consulting identified 7.38 miles of unpaved roads intersecting the subject property. The roads are mostly used from April to October and used minimally by workers for the cultivation operations. The Final SAA identified fourteen (14) encroachments stream crossings upgrades, replacements, and decommissioning throughout the subject parcel.

As previously described, no employees are required for the operation. Therefore, a significant increase in traffic is not expected under the project.

FINDINGS FOR CONDITIONAL USE 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 Timberland (T) uses, 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 Timber Production Zone or TPZ Zone is intended to be applied to forested areas of the County in which timber production and recreation are the desirable predominant uses and agriculture is the secondary use, and in which protection of the timber and recreational lands is essential to the general welfare.

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 and 22,000 SF 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 25,758 square feet of outdoor cultivation and 21,942 square feet of mixed-light cultivation on a 562.10-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) A Certificate of Subdivision Compliance was issued for the parcel (DS-06-13D, Recorder No. 2011-5546-3)

c) Water for irrigation is provided by a permitted groundwater well (16/17-0803). The onsite well is also registered with the California Department of Water Resources (WCR2017-001220; Attachment 4H).

A Hydrological Report was prepared by Lindberg Geologic Consulting in April 2022 (Attachment 4F) to assess the potential for the well to be hydrologically connected to surface waters or any adjacent wetlands or wells, and if pumping the well could affect such waters. Per the Report the well has a low potential of having any direct connection to surface waters. The nearest adjacent watercourse, Willow Creek (Class II), is approximately 800 feet from the permitted well. According to the Hydrological Report, the well is located in the northwestern corner of the parcel. As noted in the Well Completion Report (Attachment 3), the well is 200 feet deep and drilled through overburden and sandstone with serpentine. s. The first water was encountered at 90 feet. The well elevation is approximately 2,230 feet above sea level, Willow Creek's elevation is approximately 2,040 feet, and the bottom of the well is approximately 2,120 feet, which is higher (190 feet to 80 feet, top to bottom of the well) than the elevation of Willow Creek tributaries at its nearest point, based on County Web GIS map. The well is sealed through the upper 20 feet of any potential unconfined, near-surface

aquifers. When considered with the stratigraphy and geologic structure, distances (horizontal and vertically) from the nearest surface waters, depth of the producing zone for the well (~90-200 feet, sheared and fractured serpentinitized peridotite), position of the well relative to the nearest adjacent watercourse (Willow Creek), the depth of the surface seal and the well site location are sufficient to preclude the potential for hydraulic connectivity. In conclusion, per Report, the water source from which the well draws appears to be an aquifer not connected to any other unconfined, near-surface aquifer(s), and the onsite well has a low likelihood of being hydrologically connected to nearby surface waters in any manner that could affect adjacent wetlands, surface waters, springs, and/or nearby wells in the vicinity.

As the well is hydrologically disconnected from surface waters, it does not require additional water rights from the State Water Resources Control Board (SWRCB) and is not subject to forbearance or water storage requirements. Conditions of approval require the applicant to monitor water use from the well and water storage tanks annually to demonstrate there is sufficient water available to meet operational needs.

As the well is hydrologically disconnected from surface waters, it does not require additional water rights from the State Water Resources Control Board (SWRCB) and is not subject to forbearance or water storage requirements. Conditions of approval require the applicant to monitor water use from the well and water storage tanks annually to demonstrate there is sufficient water available to meet operational needs.

Conditions of approval require the applicant to implement any remaining corrective actions and Best Practical Treatment or Control (BPTC) measures and follow all monitoring requirements identified in the SMP to minimize any potential impacts associated with the project and minimize runoff into nearby SMAs.

- d) The parcel is located directly off of State Highway 299 via a private driveway. An encroachment permit was issued by the California Department of Transportation (Caltrans) in January 2021 (Attachment 4G), which identifies ownership and responsibility for the maintenance of the existing commercial driveway accessed off of State Highway 299. If there is need for any future work the property owner will need a State issued encroachment permit. The on-site roads are mostly used from April to October and used minimally by workers for the cultivation operations. The Final SAA identified fourteen (14) encroachments stream crossings upgrades, replacements, and decommissioning throughout the subject parcel and these have all been completed.
- e) The location of the cultivation complies with most 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, church, or Tribal Cultural Resource. One of the cultivation areas is located 570 feet from the shared property line with Six Rivers National Forest and a reduction in the 600 foot setback is required. This reduction can be approved as there are no mapped sensitive plant or animal species within ½ mile of the cultivation site on this USFS

property and the 30 foot reduction will not interfere with the ability of the lands to be managed for open space and wildlife purposes.

6. FINDING:

The cultivation of 47,700 square feet (SF) 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 a road, Highway 299, 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) Water for irrigation is provided by a permitted groundwater well (16/17-0803). The onsite well is also registered with the California Department of Water Resources (WCR2017-001220; Attachment 4H).

A Hydrological Report was prepared by Lindberg Geologic Consulting in April 2022 (Attachment 4F) to assess the potential for the well to be hydrologically connected to surface waters or any adjacent wetlands or wells, and if pumping the well could affect such waters. Per the Report the well has a low potential of having any direct connection to surface waters.

As the well is hydrologically disconnected from surface waters, it does not require additional water rights from the State Water Resources Control Board (SWRCB) and is not subject to forbearance or water storage requirements. Conditions of approval require the applicant to monitor water use from the well and water storage tanks annually to demonstrate there is sufficient water available to meet operational needs.

- d) 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.
- e) Power is provided by five (5) generators, with long-term plans to switch to Pacific Gas and Electric Company (PG&E) power. The generators comprise of four (4) 3-kilowatt (KW) Honda and one (1) 3.6KW self-priming GX160 Honda water pump. As previously described, conditions of approval require the applicant to submit an energy use plan that describes the power demand for the project that includes a description of what power is required for (e.g., propagation, cultivation, and processing) and how much power is required on a monthly and annual basis. The energy plan shall also include a

description of the generator(s) used to meet the power demand and state how the size of the generator is reasonable based on the power demand. The generator(s) used to support operations shall not be larger than required to meet operational needs. The plan shall also describe how the operation will transition to use of renewable energy (e.g., solar, wind, and/or hydropower) sources by the end of 2026.

- 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 is currently developed with one housing unit. The approval of cannabis cultivation on this parcel will not conflict with the ability for the existing residence to continue to be utilized 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 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 in this Planning Watershed would be 72 permits and the total approved acres would be 33 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 for Ghost Ship Investments, 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 18, 2024**.

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