

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

Resolution Number: 23-

Record Number: PLN-11167-CUP

Assessor's Parcel Number: 522-026-007-000

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Aloha Top Shelf LLC Conditional Use Permit.

WHEREAS, Aloha Top Shelf LLC, submitted an application and evidence in support of approving a Conditional Use Permit for 35,000 square feet of existing outdoor commercial cannabis cultivation; 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 Section 15162(c) of CEQA Guidelines; and

WHEREAS, the Humboldt County Planning Commission held a duly-noticed public hearing on October, 19 2023 and reviewed, considered, and discussed the application for the 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 35,000 square feet of outdoor commercial cannabis cultivation, with 3,450 square feet of ancillary propagation. Light-deprived cultivation will occur in eighteen (18) greenhouses totaling 35,000 square feet (SF). The cultivation greenhouses are located on Site 1 as shown in the Site Plan and Addendum and will consist of metal tubing covered with a woven poly translucent opaque tarp. Light deprivation will be used to produce up to two (2) flowering harvests per year; one in early July, and another in October. The 3448.8 (SF) propagation area consists of three greenhouses located at Site 2. The project includes the proposed construction of a 40' X 60' drying structure that will be permitted with the Humboldt County Building Department. This structure will replace several temporary structures that were used historically to dry and process cannabis. Trimming will be done off-site at a licensed processing facility. Two 8' x 40' storage containers are currently used for storage of equipment, fertilizers, and pesticides. The project uses solar panels to power the pumps, fans and associated electrical equipment. No generators are used in the day-to-day operations of the project.

EVIDENCE a) Project File: PLN-11167-CUP

2. FINDING:

CEQA. The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Planning Commission has considered the adopted 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 has considered the Addendum to the MND that was prepared for the Aloha Top Shelf, LLC. project.

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 project has been designed and conditioned such that surface water resources will not be impacted by water use for cannabis cultivation. A Water Resource Protection Plan was prepared for

the project by Timberland Resource Consultants. The implementation of this plan and the creation and implementation of a Site Management Plan are conditions of project approval. Conditions of approval require the applicant to adhere to and implement the recommendations of the SMP and maintain enrollment in the State Cannabis Cultivation Policy for the life of the project.

- d) No Lake or Stream Bed Alteration Agreement (LSAA) was determined to be needed from the California Department of Fish and Wildlife (CDFW) on February 8, 2019.
- e) A Biological Assessment Report was prepared for the project by Hohman and Associates Forestry Consultants in September 2023 (Attachment 4K). The nearest spotted owl activity center is approximately 1.08 miles west of the project site and additional owl activity centers are further from the project site in all directions; the nearest critical NSO habitat is located .73 to the northeast of the cultivation site. The nearest identified Marbled Murrelet habitat is located .78 Miles to the northeast. The Biological Assessment concluded that the exiting cultivation operation poses a less than significant potential impact on threatened and endangered plant and animal species, however if activities are conducted that will disturb native vegetation extensive surveying should be conducted prior to such disturbances. No Generators are used to supply power to the cultivation area/nursery and processing facility, but if they are used for emergency purposes generators will be shielded to not exceed 50 decibels at tree lines or potential habitat areas. Based on the manufacturer's noise ratings for the proposed generators, noise levels are not expected to exceed the thresholds listed above. The project is conditioned to ensure that generator or other operational equipment created noise meets the noise level threshold. Conformance will be evaluated using current auditory disturbance guidance prepared by the United States Fish and Wildlife Service. Artificial lighting may also be utilized for ancillary propagation. The project is conditioned such that combined noise generated from generators shall not exceed 50 decibels (dB) at 100 feet from the generator or at the edge of the nearest forest habitat, whichever is closer, as required by Section 314-55.4.11(o) Humboldt County Code. Additionally, conditions of approval require the applicant to submit a revised 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), how the size of the generator is reasonable based on the power demand, and how the operation will transition to use of 80% renewable energy (e.g., solar, wind, and/or hydropower) sources by the beginning of 2026. Furthermore, the project is conditioned to adhere to International Dark Sky Standards for any supplemental lighting used for cultivation, propagation, and security, 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.

- f) The project was referred to the Northwest Information Center and the Hoopa Valley Tribe. Both responded requesting that a cultural resource survey be conducted for the property's area of potential effect. A Cultural Resources Inventory Report (CRIR) was prepared by Archaeological Research and Supply, RPA (41855166) in May 2018. No cultural resources were observed and recorded because of survey efforts; the report concluded no subsequent investigation was required for the proposed project. It was concluded that there will be no effect to historical, archaeological, or Tribal Cultural Resources, as defined by CEQA with adherence to the recommended conditions of approval. The conditions require that the discovery protocol be followed
- g) As requested by Public Works, a Road Evaluation Report was prepared to the site from Cloud Crossing Road and Old 3 Creeks Road to Highway 299 and that concludes that the 6.8 -mile route leading to the subject parcel is developed to the equivalent of a category 4 road standard, is in good condition, and does not have any evidence of a site-specific safety problem.

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 Timber Production Zone (TPZ) 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 TPZ zone is applied to areas of the County in which timber production and recreation is the desirable predominant uses and general agriculture is the secondary uses.
 - 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 SF of existing outdoor cannabis and up to 22,000 SF of existing mixed light cannabis cultivation on a parcel over 5 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 is for 35,000 SF of outdoor cultivation on a parcel 212-acres in size.

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 (Section 314-55.4.8.2.2).
 - b) The parcel was created in compliance with all applicable state and local subdivision regulations, a Notice of Lot Line Adjustment and COSC was issued in 2013, Document Number 2013-32534.
 - c) Water for irrigation will be provided by two permitted wells. A well evaluation determined that there was little likelihood of significant hydrological connection between the well and surface water resources. The project has developed enough water storage to serve at least 50% of the total annual water budget for the cultivation operation though the May 15th to October 31st forbearance period.
 - d) The applicant submitted a Road Evaluation Report on December 11, 2017. The report states that the entire road segment is developed to the equivalent of road category 4 standard. A subsequent addendum to the road evaluation confirmed this.

- e) The cultivation of cannabis will not result in the net conversion of timberland.
- f) 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 and more than 600 feet from any school, church, public park or Tribal Cultural Resource.

6. FINDING

The cultivation of 35,000 square feet of outdoor cannabis cultivation with ancillary propagation 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 Cloud Crossing Road, a privately maintained road. The Road Evaluation Report concluded that the entire road segment is developed to the functional equivalent of a road category 4 standard and has been found 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) Irrigation water will come from two groundwater wells that have been permitted by the Division of Environmental Health.
- 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.

7. 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 River 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 59 cultivation permits and the total approved acres would be 26.61 acres of cultivation. If all the supply Creek projects on the agenda were to be approved there would be a total of 73 permits and 34 acres of cultivation.

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 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.

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 Aloha Top Shelf LLC., based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1A and incorporated herein by reference.

Adopted after review and consideration of all the evidence on October 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