

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

Resolution Number: 23-

Record Number: PLN-10558-CUP

Assessor's Parcel Number: 522-025-006-000

Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving the Kush Creek Organics, LLC, Conditional Use Permit and Special Permit.

WHEREAS, Kush Creek Organics, LLC submitted an application and evidence in support of approving a Conditional Use Permit for an existing 22,276 square foot (SF) mixed light (7,340 SF) and full-sun outdoor (14,936 SF) commercial cannabis cultivation operation and a Special Permit for the continued maintenance and use of a point of diversion; and

WHEREAS, the County Planning Division, the lead agency, prepared an Addendum to the 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 October 19, 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:

- 1. FINDING:** **Project Description:** Conditional Use Permit for an existing 22,276-square-foot (SF) cannabis cultivation operation consisting of 7,340 SF of mixed-light greenhouse cultivation and 14,936 SF of outdoor cultivation on the 160-acre parcel. A Special Permit is also requested for development within the Streamside Management Area (SMA) for the continued use and maintenance of the point of diversion infrastructure. Irrigation water is diverted during winter months from a hydrologically connected unnamed Class II spring. Additional sources for commercial cannabis irrigation include a proposed 300,000-gallon rainwater catchment pond. Existing available water storage includes 55,500 gallons storage. Estimated annual water usage is 46,650 gallons (1.9 gallons/SF/year), drawn entirely during the month of April. This amount is substantially less than most cannabis operations and is achieved by water-saving trench-

cultivation methods designed to only require drip irrigation from storage a few times a week during summer months. Drying is conducted in two buildings with a combined area of 1,400 SF by two permanent employees and up to three additional temporary staff. All processing and packaging will occur off-site at a third-party licensed facility. Continued use of portable toilets are conditioned until a planned onsite wastewater septic system can be constructed. Historically, solar panels provide most electricity (85 percent) and two Honda EU 3000iS generators are used to accommodate the remaining electrical demand. If approved, the project is proposed to be conditioned to transition to 100 percent on-site renewable energy by January 1, 2026.

EVIDENCE: a) Project File: PLN-10558-CUP

- 2. FINDING:** **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The Planning Commission has considered the Mitigated Negative Declaration previously adopted for the Commercial Medical Marijuana Land Use Ordinance as well as the Addendum to the Mitigated Negative Declaration that was 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) A Site Management Plan (SMP) was prepared by Natural Resource Management showing compliance with the State Water Board Cannabis General Order for Waste Discharge. 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) Review of the California Natural Diversity Database (CNDDDB) indicates no known species on concern on the project parcel. Northern Spotted Owl (NSO) nearest Northern Spotted Owl (NSO) activity center is located approximately 1.8 miles southeast of the nearest cultivation area. Power for the project is currently provided by solar (85%) and two (2) generators. 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 100% renewable energy (e.g., solar, wind, and/or hydropower) sources by January 1, 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.

- e) A Site Management Plan was prepared by Natural Resource Management in March 2020 to show compliance with the SWRCB Order WQ 2017-0023-DWQ.
- f) A Cultural Resources Investigation was prepared for the project by William Rich and Associates, which did not identify any resources on the subject site. The study did not find any archaeological resources and concluded that the project would not affect significant historic resources and recommended that no further archaeological studies be conducted for the property. Ongoing conditions of approval are incorporated regarding the Inadvertent Discoveries Protocol to protect cultural resources.
- g) Road Evaluation Reports for Old 3 Creeks Road, Supply Creek Road, and Bucks Butte Road was prepared by Supply Creek Landowners Association, dated 03/13/2020. The report includes photographs of the access road segments, which are in good condition, and do not have any evidence of a site-specific safety problem.

FINDINGS FOR CONDITIONAL USE PERMIT AND 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 Timberland Production Zone (TPZ) zone in which the site is located.

- EVIDENCE:**
- a) The Timberland Production Zone (TPZ) zone is intended to be applied to areas of the County in which primary uses include the growing and harvesting of timber and timber production facilities, including portable processing equipment. Compatible uses other than the direct growing, harvesting, and portable processing of timber include grazing and other agricultural uses.
 - b) All accessory 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 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 approval of 22,276 of pre-existing cultivation on a 160-acre parcel is consistent with this and with the cultivation area verification conducted by the County. Humboldt County Code does not authorize any new or expanded cultivation within the TPZ zones.
 - d) All cultivation is over 300 feet from all property lines and there are no public parks, churches, school bus stops or other sensitive receptors within 600 feet of the cultivation areas.

- 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 parcel was created in compliance with all applicable state and local subdivision regulations, as it was created through a government land patent and has not been altered.
 - c) The project currently sources its irrigation water from a point of diversion. The applicant intends to move forward and construct a 300,000-gallon rainwater catchment off-stream pond which will provide all of the irrigation needs. The applicant intends to discontinue the spring and utilize the pond for irrigation purposes once built. Secondly, a groundwater well has been proposed for an additional irrigation water source if needed. This well would only be utilized for the cultivation irrigation as a supplemental source only if

the Planning Department is able to verify that the well is unlikely to have a direct connection to any surface water features.

- d) Road Evaluation Reports for Old 3 Creeks Road, Supply Creek Road, and Bucks Butte Road was prepared by Supply Creek Landowners Association, dated 03/13/2020. The report includes photographs of the access road segments, which are in good condition, and do not have any evidence of a site-specific safety problem. All road segments evaluated were found to be functionally appropriate for the expected traffic.
- e) The slope of the land where cannabis will be cultivated is less than 15%.
- f) The cultivation of cannabis will not result in the net conversion of timberland post environmental baseline (January 1, 2016) as a less than three-acre conversion exemption was approved by Cal-Fire on March 10, 2015. No additional timber conversion has occurred or is proposed.
- g) 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 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.

7. FINDING: The cultivation of 22,276 square feet of commercial cannabis 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 road that 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 sizes in the area.

- c) Irrigation water will come from a proposed rainwater catchment pond and may be supplemented by a groundwater well.
- 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.

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 62 permits and the total approved acres would be 28 acres of cultivation. If all of the supply Creek projects on the agenda were to be approved there would be a total of 73 permits and 34 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 and Special Permit for Kush Creek Organics, LLC subject to the conditions of approval attached hereto as Attachment 1.

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