

SUPPLEMENTAL INFORMATION #2

For Planning Commission Agenda of:
December 3, 2020

<input type="checkbox"/>	Consent Agenda Item	
<input type="checkbox"/>	Continued Hearing Item	
<input checked="" type="checkbox"/>	Public Hearing Item	1
<input type="checkbox"/>	Department Report	
<input type="checkbox"/>	Old Business	

Re: Lost Boys Farms, LLC Conditional Use Permit

Record Number: PLN-2018-15180

Assessor Parcel Number: 204-381-008

2494 Fisher Rd, Hydesville Area

Attached for the Planning Commission's record and review is the following supplementary information items.

1. Letter from Jeffrey Slack, Attorney for Lost Boys Farms, LLC, received December 2, 2020

Staff Comment: The letter describes the significant changes the applicant has made to the proposal following the community meeting of October 21, 2020. The points raised do not change staff's recommendation. However, this helps to highlight the central question to be considered by the Planning Commission this evening: Do 25 letters of opposition representing the opinions of 32 neighbors and stakeholders constitute substantial evidence that the project will have a significant adverse impact on public welfare?

Letter from Jeffrey Slack, Attorney for Lost Boys Farms, LLC, received December 2, 2020

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November 22, 2020

VIA EMAIL AND MAIL

Humboldt County Planning Commission
C/O Planning Commission Clerk
825 Fifth Street
Eureka, CA 95501

planningclerk@co.humboldt.ca.us

RE: Public Comment in Support of Application PLN-2018-15180 for Conditional Use Permit for Lost Boys Farms, LLC (APN: 204-381-008)

To the Planning Commissioners:

I am writing this letter in support of the above referenced application for a conditional use permit for commercial cannabis cultivation, processing, and distribution. In reviewing the project as a whole, it is wholly consistent with the Carlotta - Hydesville Community Plan/Humboldt County General Plan, is not inconsistent with neighboring uses, and no substantial evidence has been presented that demonstrates the project as proposed will have a significant adverse effect on the public health, safety and welfare.

The Proposed Use Is Consistent with the Carlotta-Hydesville Community Plan

The subject parcel and the parcels surrounding it are zoned either Agricultural Exclusive (AE) or Agriculture Grazing (AG) and range in size from three (3) acres to thirty-one (31) acres. The view of the subject parcel from parcels to the west along Cooper Drive is obstructed by a dense tree line. All residences are greater than 600 feet away from the proposed areas of commercial cannabis activity. It is apparent that the parcels in the surrounding vicinity of the project zoned AE are utilized for agricultural activities,

including production of livestock, row crops, and alfalfa/hay production.

Pursuant to the Carlotta-Hydesville Community Plan, lands zoned Agriculture Exclusive include those lands capable of producing an unprocessed plant production adequate for economically viable operations.¹ Primary uses of parcels zoned AE are limited to the production of food, fiber, plants, timber, timber and agriculturally related uses, and agriculture related recreational uses. Compatible uses include agricultural and timber products processing plants. Very low intensity residential uses may be allowed if they are incidental to the property and if they support agricultural activities or are necessary for the enhancement and protection of the natural resources of the area.² Building sites on AE zoned parcels shall be clustered adjacent to existing developed areas or on portions of land least suited for agricultural use with the least adverse effects on the environment.³

The proposed cannabis project here is consistent with the Carlotta-Hydesville Community Plan in that the proposed cultivation, processing and distribution are either primary or compatible uses on AE zoned parcels. The uses applicant proposes include plant production and associated processing and distribution related uses. Applicant is also proposing to cluster proposed buildings associated with the agricultural uses adjacent to existing developed areas as shown on the revised site plan submitted in support of the project, in conformance with the Carlotta-Hydesville Community Plan. Note, the Carlotta-Hydesville Community Plan provides that residential uses of AE and AG parcels allowable uses, undermining the argument that the character of this area is primarily residential.⁴

Accordingly, the proposed project complies with the zoning regulations applicable to the Carlotta/Hydesville Community Area.

The Evidence Presented Demonstrates The Project Will Not Negatively Impact the Public Health, Safety or Welfare

In addition to facts and evidence establishing the project's conformance with the Carlotta-Hydesville Community Plan and the General Plan as a whole, the project applicant has submitted substantial evidence that the project, as proposed, will not be

¹ See Humboldt County General Plan: Carlotta/Hydesville Community Plan Ch. 2 Section 2722
<https://humboldt.gov/DocumentCenter/View/4361/Carlotta--Hydesville-Community-Plans-PDF>

² Id.

³ Id.

⁴ Also of note, the density requirements for AG zoned parcels do not provide for dwelling units on parcels zoned 20 acres or less. See Carlota/Hydesville Community Plan Ch. 2 Section 2723

detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

The required findings for all permits and variances include a finding that the proposed development and 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.⁵ The hearing officer shall receive pertinent evidence regarding the permit or variance, particularly evidence pertinent to the required findings.⁶ The burden is on the applicant for establishing the facts necessary to make the required findings.⁷ The hearing officer must consider all the evidence presented and the conclusions and findings reached must be reasonably supported by such evidence.⁸

In reviewing evidence concerning the issue of public health, safety or welfare, the hearing officer must determine the relative weight to give conflicting evidence in the record. For instance, where evidence opposing a project is presented by persons who do not live or own property within the general vicinity of a project should be given little weight in making the necessary findings.⁹ Alternatively, evidence that demonstrates mitigation of potential impacts resulting from the project should be given greater weight.¹⁰

In this case, the applicant has presented substantial evidence of mitigation of any potential impacts from the project and such evidence should be given substantial weight in making the required findings for this project. Such evidence includes: the presence of on-site security during non-business hours who will patrol the surrounding neighborhood and increase law enforcement response times in the event of an emergency; carpooling and shuttle bus service to and from the project site resulting in decreased traffic along Fisher Road, the addition of a public fire hydrant and dedicated 25,000 gallon water tank to be used by the public in the event of a fire emergency; and to implement odor and light control which will eliminate the potential for noxious smells and light to escape from the project location. Further, the applicant has presented evidence that it has secured a deep-water well that will not interfere with private water sources in the surrounding area, will maintain and conserve the prime agricultural soils located on the property, and will construct privacy fencing or trees, at the community's option, to mitigate any impacts to viewshed. Such mitigations will enhance, rather than detract

⁵ Humboldt County Code Title III Div. 1 Chptr. 2 Sections 312-17.1.1 – 312.17.1.5 <https://humboldt.county.codes/Code/312-17>

⁶ Humboldt County Code Title III Div. 1 Chptr. 2 Section 312-6.4.1.

⁷ Humboldt County Code Title III Div. 1 Chptr. 2 Section 312-6.4.2.

⁸ See *Cohn v. Bd. Of Sup'rs of Los Angeles County* (1955) 135 Cal. App. 2d 180, 185.

⁹ *Id.*

¹⁰ *Id.*

from, the public health, safety and welfare of the surrounding community.

Conversely, the concerns raised by the opposition to this project has been addressed through the proposed mitigation and should be given little weight in making the required findings. Further, the nearest residentially zoned parcels to the project site is over a half mile away and will not be directly impacted by the project. The neighborhood to the northwest along Cooper Drive is completely shielded from the project by a dense tree line and the project will have no visual impacts on this area. The applicant has proposed to reconfigure the site so that nearly a quarter mile of Fisher Road into the neighborhood will not be impacted by the project at all. Shuttle service and carpooling to and from the project site will further reduce any potential traffic impacts from the project. As noted above, the proposed project is consistent with the AE zone in which it is located, and consistent with the surrounding AE and AG zones.

Accordingly, based on the foregoing, substantial evidence has been presented to show that this project is both consistent with the Carlotta – Hydesville Community Plan and that the project as proposed will not be detrimental to the public health, safety or welfare. The proposed mitigations address the concerns of the community and promote the project promotes the primary uses of the Agricultural Exclusive zone in which it is located. The agriculture use being proposed is consistent with the agricultural uses of the surrounding parcels. Therefore, there is sufficient evidence in the record to make the required findings of approval for this project.

Humbly Submitted,

A handwritten signature in blue ink, appearing to read "Jeff Slack", is written over a horizontal line.

Jeffrey Slack, Esq.

Attorney for Lost Boys Farms, LLC