



COUNTY OF HUMBOLDT
PLANNING AND BUILDING DEPARTMENT
CURRENT PLANNING DIVISION

3015 H Street Eureka CA 95501
Phone: (707) 445-7541 Fax: (707) 268-3792

Hearing Date: August 5, 2021

To: Humboldt County Planning Commission

From: John H. Ford, Director of Planning and Building Department

Subject: **Kenneth Holland, Conditional Use Permit**
Record Number PLN-13194-CUP
Assessor's Parcel Number (APN) 110-051-029
246 Parsons Road, Whitethorn (Shelter Cove) area

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Please contact David J. R. Mack, AICP, Project Manager/Senior Planner (Harris & Associates) at 831-320-0413 or by email at david.mack@weareharris.com, if you have any questions about the scheduled public hearing item.

AGENDA ITEM TRANSMITTAL

Hearing Date August 5, 2021	Subject Conditional Use Permit - Cultivation Special Use Permit - Processing	Contact David Mack, AICP
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Project Description: Kenneth Holland seeks approval for a Special Use Permit to allow cannabis processing in a proposed 900 square foot (SF) building and a Conditional Use Permit to allow commercial cannabis cultivation in a proposed 980-SF greenhouse (nursery). The project also proposes the installation of three (3) parking stalls, including one (1) accessible stall with a striped unloading area for people with disabilities.

The cannabis processing facility will not be open to the public and will not accept visitors without a pre-arranged specific business purpose. Hours of operation will typically be from 7:00 AM to 7:00 PM daily. During periods of seasonally high workload, the hours of operation may be expanded to 24 hours per day. However, shipping, receiving, and other traffic or noise generating activities will remain limited to normal business hours (7:00 AM to 7:00 PM daily). The facility will employ one (1) to two (2) persons on a full-time basis. All products will be sold to state-licensed facilities on a wholesale basis. Only authorized representatives of state-licensed customer facilities and appropriately licensed vendors will be allowed to enter the site and/or be in close proximity to the products.

The commercial nursery will not be open to the public and will not accept visitors without a pre-arranged specific business purpose. Hours of operation will typically be from 7:00 AM to 7:00 PM daily, with nursery shipping and receiving hours from 8:00 AM to 6:00 PM. Nursery operations will require one (1) to three (3) employees on a full-time basis. The purpose of the nursery facility is to cultivate immature plants only, and all products will be sold to state-licensed cultivation facilities. Only authorized representatives of state-licensed customer facilities and appropriately licensed vendors will be allowed to enter the site and/or be in close proximity to the products. The nursery operations will be fully enclosed to prevent soil erosion, and any excess water used during cultivation will be recycled and/or evaporated instead of discharged. No cultivation water will be disposed of by discharge.

The site is accessed from Parsons Road, via a proposed gravel driveway. Power is provided to the site via an existing electrical supply line and connection from the Shelter Cove Resort Improvement District 1. Water is provided by the Shelter Cove Resort Improvement District 1. It is estimated that the nursery will use 33,600 gallons of water per year (2,800 gallons per month). No water storage is proposed on site, and no forbearance is required.

Project Location: The project is located at 246 Parsons Road, southwest of the Parsons Road/Olson Road intersection, in the unincorporated Whitethorn (Shelter Cove) area in southern Humboldt County.

Present Plan Land Use Designations: Commercial General (CG), which is intended for lands that are suitable for commercial development because of location, access, and availability of services.

Present Zoning: C-2-Q-D [Community Commercial, with Qualified (Q) and Design Review (D) overlays]

Record Number: PLN-13194-CUP

Assessor's Parcel Number: 110-051-029

Applicant

Kenneth Holland
260 Landis Road
Shelter Cove, CA 95589
rustyfariorwork@gmail.com
(707) 496-9697

Owner

Sean Moynihan
11740 Corp Ranch Road
Ashland, OR 97520
805-441-7266

Agent

N/A

Environmental Review: An Addendum to a previously adopted Mitigated Negative Declaration has been prepared for consideration per §15164 of CEQA Guidelines.

State Appeal Status: Project is NOT appealable to the California Coastal Commission.

Major Issues: No major issues/concerns were identified for this project.

KENNETH HOLLAND

Record Number: PLN-13194-CUP

Assessor's Parcel Number: 110-051-029

Recommended Commission Action

1. Describe the application as part of the Consent Agenda.
2. Survey the audience for any person who would like to discuss the application.
3. If no one requests discussion, make the following motion to approve the application as a part of the consent agenda:

Adopt the Resolution to:

1. *Find that the Commission has considered the Addendum to the adopted Mitigated Negative Declaration for the Commercial Medical Land Use Ordinance (CCMLUO), as described by Section §15164 of the State CEQA Guidelines;*
2. *Make the required findings for approval of the Conditional Use Permit; and*
3. *Approve the Kenneth Holland Conditional Use Permit and Special Use Permit as recommended by staff subject to the recommended conditions.*

Executive Summary: Kenneth Holland seeks approval for a Special Use Permit to allow cannabis processing in a proposed 900 square foot (SF) building and a Conditional Use Permit to allow commercial cannabis cultivation in a proposed 980-SF greenhouse (nursery). This permit application is in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, Commercial Medical Marijuana Land Use Ordinance (CMMLUO).

The parcel (APN 110-051-029) measures approximately 0.31 acres, is zoned C-2-Q-D [Community Commercial, with Qualified (Q) and Design Review (D) overlays], and is designated Commercial General (CG) in the Humboldt County General Plan.

Proposed development onsite includes a 980-SF greenhouse structure, a 900-SF processing facility, septic tank with primary and reserve leech fields, 12-foot-wide gravel driveway/access, and three (3) parking stalls, including one (1) accessible stall with a striped unloading area for people with disabilities.

The cannabis processing facility will not be open to the public and will not accept visitors without a pre-arranged specific business purpose. Hours of operation will typically be from 7:00 AM to 7:00 PM daily. During periods of seasonally high workload, the hours of operation may be expanded to 24 hours per day. However, shipping, receiving, and other traffic or noise generating activities will remain limited to normal business hours (7:00 AM to 7:00 PM daily). The facility will employ one (1) to two (2) persons on a full-time basis. All products will be sold to state-licensed facilities on a wholesale basis. Only authorized representatives of state-licensed customer facilities and appropriately licensed vendors will be allowed to enter the site and/or be in close proximity to the products.

The commercial nursery will not be open to the public and will not accept visitors without a pre-arranged specific business purpose. Hours of operation will typically be from 7:00 AM to 7:00 PM daily, with nursery shipping and receiving hours from 8:00 AM to 6:00 PM. Nursery operations will require one (1) to three (3) employees on a full-time basis. The purpose of the nursery facility is to cultivate immature plants only, and all products will be sold to state-licensed cultivation facilities. Only authorized representatives of state-licensed customer facilities and appropriately licensed vendors will be allowed to enter the site and/or be in close proximity to the products. The nursery operations will be fully enclosed to prevent soil erosion, and any excess water used during cultivation will be recycled and/or evaporated instead of discharged. No cultivation water will be disposed of by discharge.

The site is accessed from Parsons Road, via a proposed gravel driveway. Power is provided to the site via an existing electrical supply line and connection from the Shelter Cove Resort Improvement District 1. Water is provided by the Shelter Cove Resort Improvement District 1. The nursery is estimated to use 33,600 gallons of water per year (2,800 gallons per month). No water storage is proposed on site, and forbearance is not required.

Processing Operations Plan

The applicant prepared a Processing Operations Plan & Manual to provide details and technical information regarding access, operations, safety, and chemical/extraction minerals used throughout the processing operations. This technical document is similar to a Cultivation Operations Plan used by cannabis growers. This document is on file with Humboldt County as part of the project file.

Nursery Operations Plan

The applicant prepared a Nursery Operations Plan & Manual to provide details and technical information regarding the commercial nursery operations, access, safety and water use used regarding the nursery operations. This technical document is similar to the Cultivation Operations Plan used by other cannabis application. This document is on file with Humboldt County as part of the project file.

Neighborhood Design Survey

In August 2018, a Neighborhood Design Survey (NDS) was conducted to determine compatibility with surrounding offsite structures. The NDS determined that the proposed structures will be consistent with other structure within the immediate vicinity, most of which were constructed of T-111 siding (5 occurrences), horizontal lap siding (6 occurrences), metal (2 occurrences), or stucco and lap siding (1 occurrence). No evidence of inconsistency or incompatibility with surrounding structures was documented. The NDS is on file with Humboldt County as part of the project file.

Resort Improvement District (Shelter Cove) Referral

The project was referred to the Resort Improvement District (RID) 1 to consider a request for upgrading the power supply from residential to commercial power. During the December 12, 2020 meeting of the RID Board of Directors, the Board voted unanimously to approve the request (Agenda Item X.2). The minutes for the RID meeting are on file with Humboldt County as part of the project file.

Road Way Evaluation/Access

The project is located at 246 Parsons Road, southwest of the Parsons Road/Olson Road intersection, in the unincorporated Whitethorn (Shelter Cove) area in southern Humboldt County. The Humboldt County Department of Public Works (DPW) reviewed the project and did not request a road evaluation report. DPW recommended conditions of approval related to fences/gates (**Condition 12**), site driveway (**Condition 13**), parking lot storm water runoff (**Condition 14**), driveway/private road intersection visibility (**Condition 15**), dedication of an avigation easement (**Condition 16**), and compliance with MS4/ASBS requirements (**Condition 17**).

Archaeological Investigation

A records search for known cultural resources was requested from the Northwest Information Center (NWIC) on January 15, 2019. The results indicated that a prior study (#S-185, Fredrickson 175) may have included all or parts of the project site based on the maps, but it was unclear if the researchers surveyed the project site. The NWIC recommended contacting local Native American Tribes to ensure project activities are outside of Tribal Territories. The Bear River Band of the Rohnerville Rancheria was contacted and responded that they are not aware of any known resources on the project parcel, the site does not appear to be particularly sensitive, and the Inadvertent Discovery Protocol should be applied (**Condition 11**).

California Environmental Quality Act (CEQA)

Environmental review for this project was conducted in May 2021. Based on the results of that analysis, staff finds that all aspects of the project have been considered in the Mitigated Negative Declaration (MND) that was adopted for the CMMLUO, and thus has prepared an addendum to the MND for consideration by the Zoning Administrator (See **Attachment 2** for more information).

RECOMMENDATION: Based on a review of Planning Division reference sources and comments from all involved referral agencies, Planning staff believes that the applicant has submitted evidence in support of making all of the required findings for approval of the Conditional Use Permit (CUP) and Special Use Permit (SP) for PLN-13194-CUP.

ALTERNATIVES: The Planning Commission could elect to 1) not approve the project, or 2) require the applicant to submit further evidence, or 3) modify the project. If modifications may cause potentially significant impacts, additional CEQA analysis and findings may be required. These alternatives could be implemented if the Commission is unable to make all of the required findings. Planning staff has stated that the required findings in support of the proposal have been made. Consequently, Planning staff does not recommend further consideration of any alternative.

The Planning Commission could also decide the project may have environmental impacts that would require further environmental review pursuant to CEQA. Staff did not identify any potential impacts. As the lead agency, the Planning and Building Department has determined that the project is consistent with the MND for the CMMLUO as stated above. However, the Commission may reach a different conclusion, in which case, the Commission could continue the item to a future date at least two months later to provide staff adequate time to complete further environmental review.

Inadvertent Discovery Protocol should be applied (**Condition 11**).

FINDINGS FOR SPECIAL USE PERMIT and CONDITIONAL USE PERMIT

- 3. FINDING** The proposed development is in conformance with the County General Plan.
- EVIDENCE** a) Commercial General (CG) land use designation is intended for lands that are suitable for commercial development because of location, access, and availability of services.
- 4. FINDING** The proposed development is consistent with the purposes of the existing C-2 (Community Commercial) zoning district.
- EVIDENCE** a) Community Commercial (C-2) zoned parcels are intended to apply where more complete commercial facilities are necessary for community convenience.
- b) Humboldt County Code section 314-55.4.8.4 allows processing facilities within the C-2 zoning designation, subject to approval of a Special Use Permit. The application for a 900-SF processing facility in a proposed commercial structure, is consistent with the Humboldt County Code.
- c) Humboldt County Code section 314-55-4.8.3 allows commercial cultivation of cannabis (nursery) within the C-2 zoning designation subject to approval of a Conditional Use Permit. The application for a proposed 980-SF commercial nursery is consistent with the Humboldt County Code.
- 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 processing to be permitted in areas zoned Community Commercial (C-2) (HCC 314-55.4.8.3 and 314-55.4.8.4).
- b) The parcel in its current configuration was created in compliance with all applicable state and local subdivision regulations, as part of a recorded subdivision map (Tract 42, Block 14 of Maps, Pages 116, 117 & 121) – Shelter Cove Subdivision.
- c) The location of the processing building 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 980 SF of 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 project is located at 246 Parsons Road, approximately 0.1 mile southwest of the Parsons Road/Olson Road intersection, in the unincorporated Whitethorn (Shelter Cove) area in southern Humboldt County. The Humboldt County Department of Public Works (DPW) reviewed the project and did not request a road evaluation report. DPW recommended conditions of approval related to fences/gates (**Condition 12**), site driveway (**Condition 13**), parking lot storm water runoff (**Condition 14**), driveway/private road intersection visibility (**Condition 15**), dedication of an avigation easement (**Condition 16**), and compliance with MS4/ASBS requirements (**Condition 17**).
- b) The existing cannabis processing facility (900-SF building) is 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 processing or manufacture. Approving processing and commercial nursery operations 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) The location of the proposed cannabis cultivation (980-SF greenhouse) is more than 300 feet from the nearest off-site residence.
- d) Irrigation water will come from a municipal source (Shelter Cove Resort Improvement District 1). No water storage or forbearance is required.

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 currently does not contain a residential unit. The approval of cannabis processing on this parcel will not conflict with or reduce the residential density of the subject parcel.

DECISION

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Planning Commission does hereby:

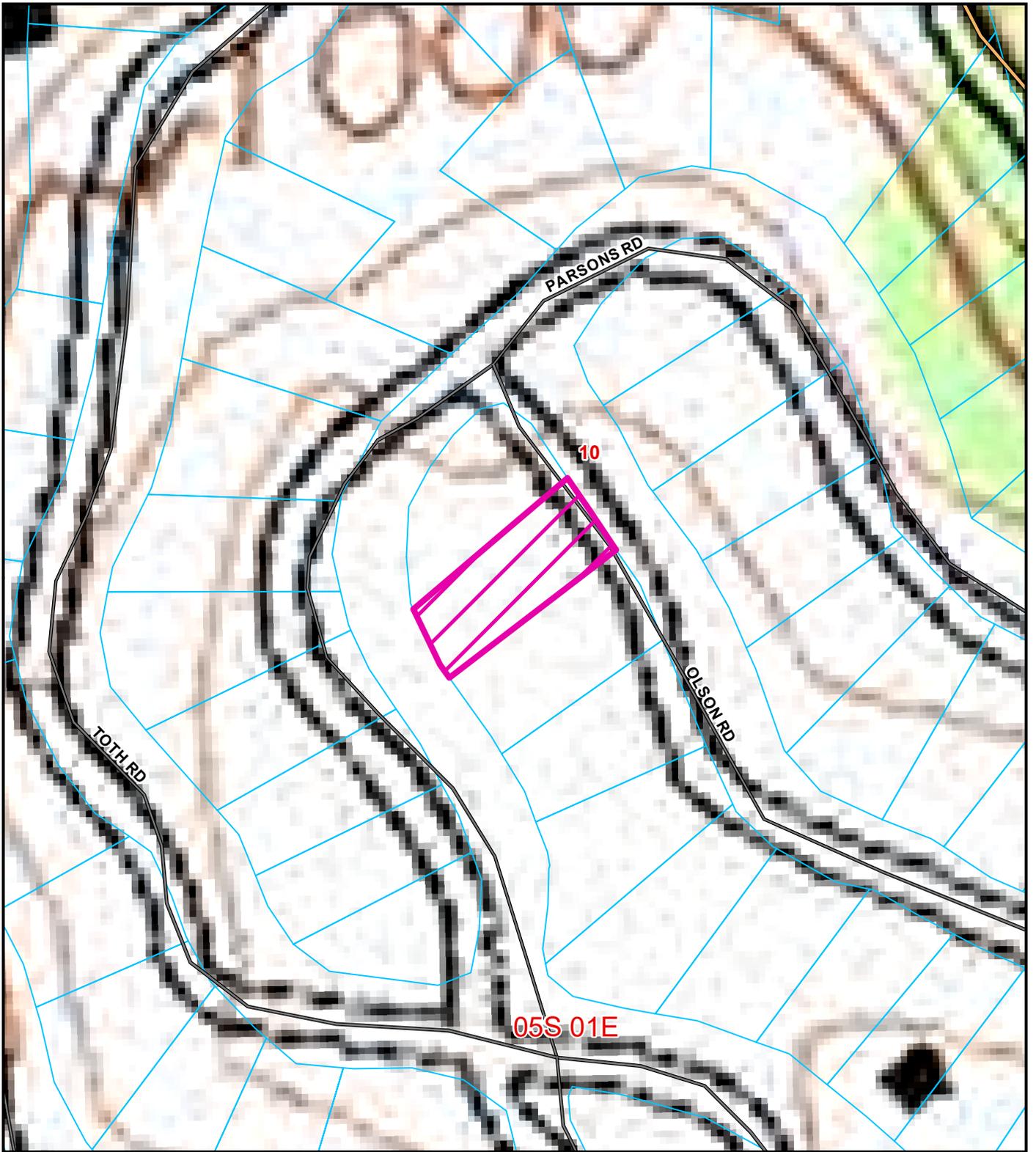
- Adopt the findings set forth in this resolution; and
- Conditionally approve the Conditional Use Permit and Special Use Permit (PLN-13194-CUP) for Kenneth Holland, subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference; and
- Adopted after review and consideration of all the evidence on **August 5, 2021**

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

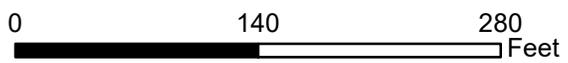


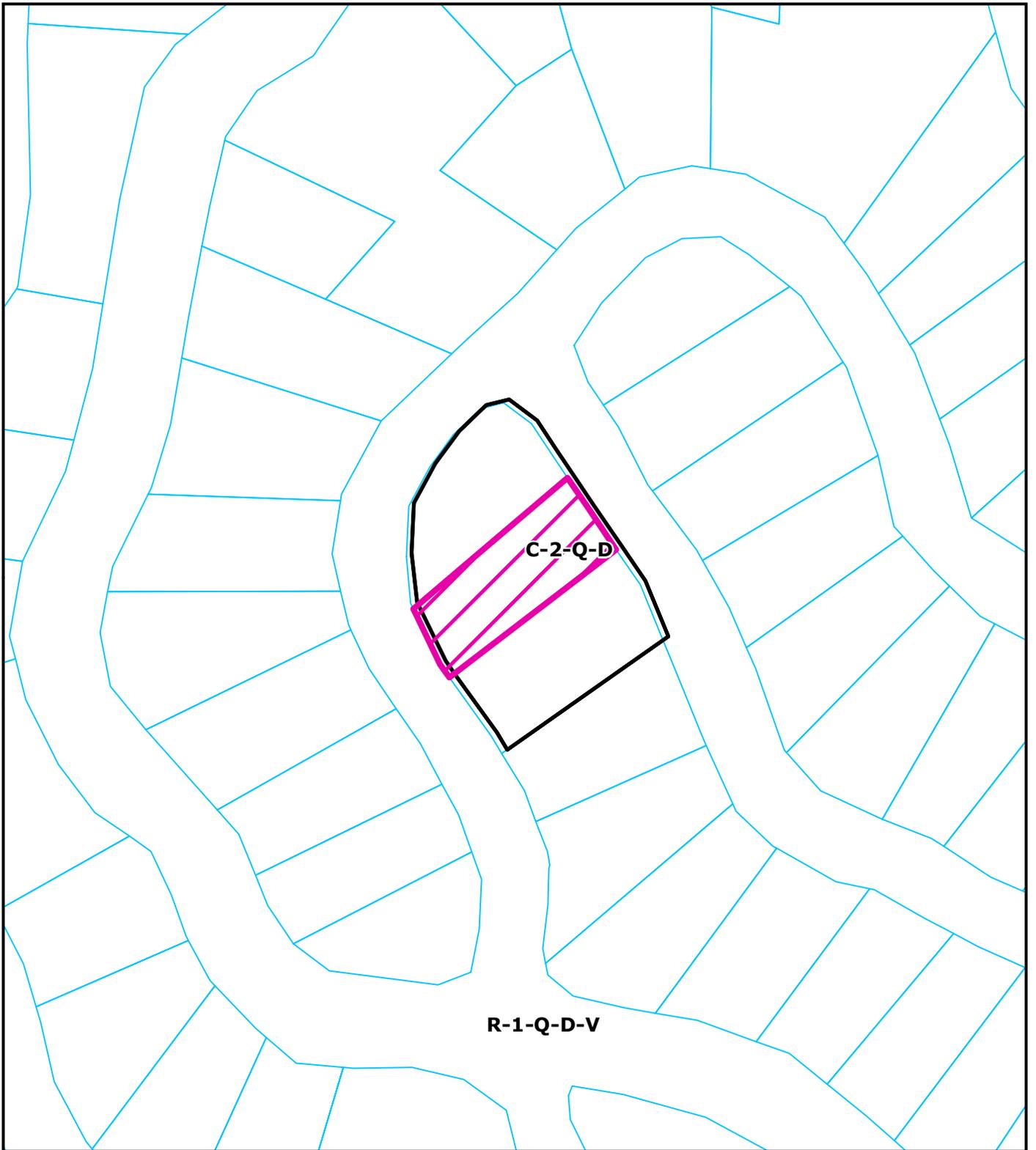
Project Area = 

TOPO MAP
PROPOSED SEAN MOYNIHAN
SHELTER COVE AREA
CUP-16-1033;SP-16-815
APN: 110-051-029
T05S R01E S10 HB&M (SHELTER COVE)



This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.



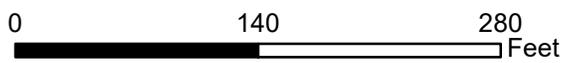


Project Area = 

ZONING MAP
PROPOSED SEAN MOYNIHAN
SHELTER COVE AREA
CUP-16-1033;SP-16-815
APN: 110-051-029
T05S R01E S10 HB&M (SHELTER COVE)



This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.



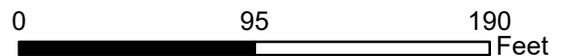


**AERIAL MAP
PROPOSED SEAN MOYNIHAN
SHELTER COVE AREA
CUP-16-1033;SP-16-815
APN: 110-051-029
T05S R01E S10 HB&M (SHELTER COVE)**

Project Area = 



This map is intended for display purposes and should not be used for precise measurement or navigation. Data has not been completely checked for accuracy.



PROJECT INFORMATION

OWNERS: SEAN MOYNIHAN
 SITE ADDRESS: 246 PARSONS ROAD
 SHELTER COVE, CA 95589
 APN #: 110-051-029
 ZONING: C-2-0-0
 USE CODE: 1000 VACANT SINGLE FAMILY RESIDENTIAL
 WATER: COMMUNITY
 POWER: COMMUNITY

PROJECT DESCRIPTION

PROPOSED PROJECT IS TO OBTAIN PROCESSING AND NURSERY PERMITS FOR THE PROJECT, A 900 SQUARE FEET COMMERCIAL FACILITY AND 100 SQUARE FEET COMMERCIAL FACILITY AND TWO 800 SQUARE FEET GREENHOUSES TO FACILITATE THE NURSERY.

PROJECT NOTES

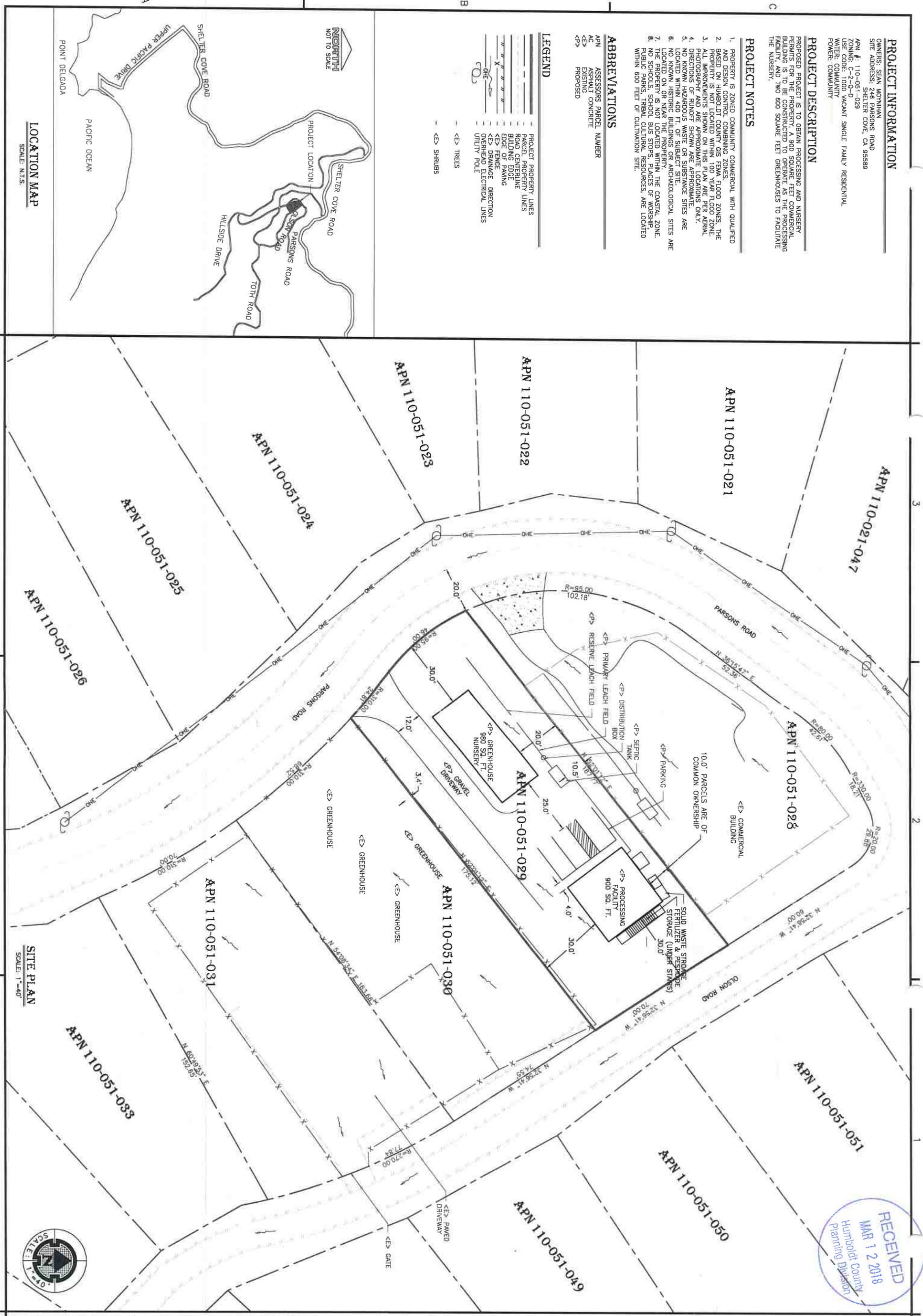
1. PROPERTY IS ZONED COMMUNITY COMMERCIAL WITH QUALIFIED AND DESIGN CONTROL COMBINING ZONES.
2. BASED ON HUMBOLDT COUNTY GIS FEMA FLOOD ZONES, THE PROPERTY IS NOT LOCATED WITHIN 100 YEAR FLOOD ZONE.
3. ALL IMPROVEMENTS SHOWN ON THIS PLAN ARE PER AERIAL PHOTOGRAPHY AND FIELD SURVEY.
4. DIRECTIONS OF RUNOFF SHOWN ARE APPROXIMATE ONLY.
5. NO KNOWN HAZARDOUS WASTE OR SUBSTANCE SITES ARE LOCATED WITHIN 400 FT. OF SUBJECT SITE.
6. NO KNOWN HISTORIC BUILDINGS OR ARCHAEOLOGICAL SITES ARE LOCATED ON OR NEAR THE PROPERTY.
7. THE PROPERTY IS NOT LOCATED WITHIN THE COASTAL ZONE.
8. PUBLIC PARKS, SCHOOLS, CLUBS AND RESOURCES ARE LOCATED WITHIN 600 FEET OF CULTIVATION SITE.

ABBREVIATIONS

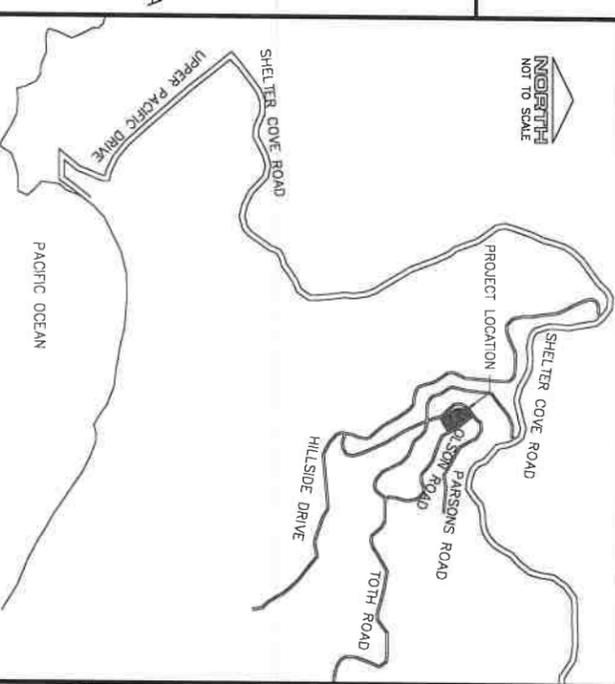
APN ASSESSORS PARCEL NUMBER
 AC ASPHALT CONCRETE
 <E> EXISTING
 <P> PROPOSED

LEGEND

- PROJECT PROPERTY LINES
- PROJECT PROPERTY LINES
- ROAD PROPERTY LINE
- BUILDING EDGE
- EDGE OF PAVING
- <E> FENCE
- <E> DRAINAGE DIRECTION
- OVERHEAD ELECTRICAL LINES
- UTILITY POLE
- <E> TREES
- <E> SHRUBS



LOCATION MAP



SITE PLAN

SCALE: 1"=40'



JOB NUMBER 16-1945	SHEET NUMBER C-1	Date: JANUARY 4, 2018 Scale: Drawn by: AS SHOWN NM	MOYNIHAN PROPERTY 246 PARSONS ROAD SHELTER COVE, CA 95589 APN 110-051-029	SITE PLAN PACIFIC AFFILIATES, INC. HEREBY EXPRESSLY RESERVES ITS COMMON LAW COPYRIGHT AND OTHER PROPERTY RIGHTS IN THESE PLANS. THESE PLANS AND DRAWINGS ARE NOT TO BE REPRODUCED, CHANGED OR COPIED IN ANY FORM OR MANNER WHATSOEVER WITHOUT FIRST OBTAINING THE EXPRESS WRITTEN PERMISSION OF PACIFIC AFFILIATES, INC. NOR ARE THEY ASSIGNED TO ANY THIRD PARTY WITHOUT FIRST OBTAINING WRITTEN PERMISSION AND CONSENT.	REGISTERED PROFESSIONAL ENGINEER FRANCIS L. SCHNEIDER EXP. 12-31-2018 CIVIL STATE OF CALIFORNIA	PACIFIC AFFILIATES CONSULTING ENGINEERS 990 W. WATERFRONT DRIVE, EUREKA, CA 95501 TEL (707) 445-3001 • FAX (707) 445-3003	REVISIONS BY
			REVISIONS BY				

ATTACHMENT 1

RECOMMENDED CONDITIONS OF APPROVAL

APPROVAL OF THE CONDITIONAL USE PERMIT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS, WHICH MUST BE SATISFIED BEFORE THE PROVISIONAL CANNABIS CULTIVATION PERMIT CAN BE FINALIZED.

A. General Conditions:

1. The applicant is responsible for obtaining all necessary County and State permits and licenses, and for meeting all requirements set forth by other regulatory agencies.
2. The applicant is required to pay for permit processing on a time and material basis, as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Planning and Building Department will provide a bill to the applicant after the decision. Any and all outstanding planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
3. The applicant is responsible for costs for post-approval review for determining project conformance with conditions. A deposit is collected to cover the staff review. Permit conformance with conditions must be demonstrated prior to release of building permit or initiation of use, and at the time of annual inspection. A conformance review deposit, as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$750), shall be paid within sixty (60) days of the effective date of the permit or upon filing of the Compliance Agreement (where applicable), whichever occurs first. Payment shall be made to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
4. A Notice of Determination (NOD) will be prepared and filed with the County Clerk for this project in accordance with the State CEQA Guidelines. **Within three days of the effective date of permit approval**, it is requested that the applicant submit a check or money order for the required filing fee in the amount of \$50 payable to the Humboldt County Clerk/Recorder. If this payment is not received within this time period, the Planning and Building Department will file the NOD and will charge this cost to the project.
5. Within 60 days of the effective date of permit approval, the applicant shall execute a Compliance Agreement with the Humboldt County Planning and Building Department detailing all necessary permits and infrastructure improvements described under Conditions of Approval #6 through #17. The agreement shall provide a timeline for completing all outstanding items. All activities detailed under the agreement must be completed to the satisfaction of the Planning and Building Department before the permit may be finalized and no longer considered provisional.
6. The applicant shall secure permits for all structures related to the cannabis cultivation and other commercial cannabis activity, including but not limited to: existing and proposed greenhouses, water tanks over 5,000 gallons, existing and proposed structures associated with drying and storage or any activity with a nexus to cannabis, and any noise containment structures as necessary. The plans submitted for building permit approval shall be consistent with the project description and the approved project site plan.
7. The approved building plans shall meet all applicable fire codes, including fire suppression infrastructure requirements deemed necessary for the project by the Building Inspection Division. Sign-off on the Occupancy Permit by the Building Division shall satisfy this requirement.
8. Prior to processing of the permit, the Department of Environmental Health (DEH) requires an acceptable site suitability report to establish potential for onsite waste treatment system (OWTS) adequate to support proposed staffing. The approval of an unpermitted OWTS is dependent upon demonstration of

site suitability from a qualified professional. An invoice or equivalent documentation shall be provided to DEH to confirm the continual use of portable toilets to serve the needs of cultivation staff prior to reissuance of an annual permit.

9. The applicant shall be compliant with the County of Humboldt's Certified Unified Program Agency (CUPA) requirements regarding hazardous materials. A written verification of compliance shall be required before any provisional permits may be finalized. Ongoing proof of compliance with this condition shall be required at each annual inspection in order to keep the permit valid.
10. The applicant shall execute and file with the Planning and Building Department the statement titled, "Notice and Acknowledgment regarding Agricultural Activities in Humboldt County," ("Right to Farm" ordinance) as required by the HCC and available at the Planning Division.
11. The applicant shall implement the Inadvertent Discovery Protocol. In the event of the accidental discovery of historical artifacts or human remains, all work within 100 feet of the find shall stop, and a qualified professional archaeologist, the County project representative, and representatives from the Bear River Band of the Rohnerville Rancheria shall be contacted immediately to inspect and clear the site for all further activities.
12. Public Works – County Roads – Fences & Encroachments- All fences and gates shall be relocated out of the County right of way. All gates shall be setback sufficiently from the County road so that vehicles will not block traffic when staging to open/close gate. In addition, no materials shall be stored or placed in the County right of way. This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.
13. Public Works – County Roads – Driveway (Part 2)- Any existing or proposed driveway that will serve as access for the proposed project that connect to a county maintained road shall be improved to current standards for a commercial driveway. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the County maintained right of way. This also includes installing or replacing driveway culverts; minimum size is typically 18 inches. If the County road as a paved surface at the location of the driveway, the driveway apron shall be paved for a minimum width of 18 feet and length of 50 feet. This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.
14. Public Works – County Roads – Parking Lot-Storm Water Runoff- Surfaced parking lots shall have an oil-water filtration system prior to discharge into any County maintained facility. This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.
15. Public Works – County Roads – Driveway & Private Road Intersection Visibility- All driveways and private road intersections onto the County Road shall be maintained in accordance with County Code Section 31-1 (Sight Visibility Ordinance). This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.
16. Public Works – Airport – Part 1 (ALUCP) - The applicant shall cause to be dedicated to the County of Humboldt an avigation easement. The avigation easement shall be on the form prescribed by the Department of Public Works. This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license. The applicant shall conduct all operations consistent with the ALUCP and in a manner that does not attract flocks of birds. Open ponds shall not be permitted.

17. Public Works – MS4/ASBS Areas- The applicant shall demonstrate to the satisfaction of the Planning & Building Department that the project is in compliance with MS4/ASBS requirements.

B. Ongoing Requirements/Development Restrictions Which Must be Satisfied for the Life of the Project:

1. The combined noise from background, generator, greenhouse fan, or other operational activities and equipment must not result in the harassment of Northern Spotted Owl species, as required to meet the performance standards for noise set by Department Policy Statement No. 16-005 clarifying CMMLUO Section 55.4.11 (o) requirements. The combined noise levels measured at 100 feet or the edge of habitat, whichever is closer, shall be at or below 50 decibels. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service, and further consultation where necessary. A building permit shall be obtained should any structures be necessary for noise attenuation.
2. All artificial light utilized in mixed light greenhouses shall be limited to 6 watts per square foot, with no wattage limit in the ancillary propagation greenhouse. All artificial lighting shall be fully contained within structures such that no light escapes (i.e., through the use of blackout curtains). Structures shall be enclosed between 30 minutes prior to sunset and 30 minutes after sunrise to prevent disruption to crepuscular wildlife. Security lighting shall be motion activated and comply with the International Dark-Sky Association standards and Fixture Seal of Approval Program (refer to <https://www.darksky.org/our-work/lighting/lighting-for-citizens/lighting-basics/>). Standards include, but are not limited to: Light shall 1) be shielded and downward facing, 2) consist of Low Pressure Sodium (LPS) light or low spectrum Light Emitting Diodes (LED) with a color temperature of 3000 kelvins or less, and 3) only placed where needed.
3. Should the Humboldt County Planning Division receive complaints that the lighting or noise is not complying with the standards listed above in items B.1. and B.2., within ten (10) working days of receiving written notification that a complaint has been filed, the applicant shall submit written verification that the lights' shielding and alignment and noise levels have been repaired, inspected, and corrected as necessary.
4. Prohibition on use of synthetic netting. To minimize the risk of wildlife entrapment, the Permittee shall not use any erosion control and/or cultivation materials that contain synthetic (e.g., plastic or nylon) netting, including photo- or biodegradable plastic netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves.
5. All refuse shall be contained in wildlife proof storage containers at all times and disposed at an authorized waste management facility.
6. Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and shall be allowed to leave the work site unharmed.
7. The use of anticoagulant rodenticide is prohibited.
8. The operator shall provide information to all employees about the potential health impacts of cannabis use on children. Information shall be provided by posting the brochures from the Department of Health and Human Services titled "Cannabis Palm Card" and "Cannabis Rack Card." This information shall also be provided to all employees as part of the employee orientation.
9. All components of the project shall be developed, operated, and maintained in conformance with the Project Description, the approved Site Plan, the Plan of Operations, and these conditions of approval. Any changes shall require modification of this permit, except where consistent with Humboldt County Code Section 312-11.1, Minor Deviations to Approved Plot Plan. If offsite processing is chosen to be the preferred method of processing, this permit shall be modified to identify the offsite licensed facility.

10. Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws and regulations as set forth in the CMMLUO and Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), as applicable to the permit type.
11. If operating pursuant to a written approved compliance agreement, permittee shall abate or cure violations at the earliest feasible date, but in no event no more than two (2) years from the date of issuance of a provisional clearance or permit. Permittee shall provide plans for curing such violations to the Planning and Building Department within one (1) year of issuance of the provisional clearance or permit. If good faith effort toward compliance can be shown within the two years following the issuance of the provisional clearance or permit, the Department may, at the discretion of the Director, provide for extensions of the provisional permit to allow additional time to meet the outstanding requirements.
12. The permittee shall have possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the MAUCRSA, and regulations promulgated thereunder, as soon as such licenses become available.
13. The permittee shall be in compliance with all statutes, regulations, and requirements of the California State Water Resources Control Board and the Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration, as applicable.
14. The permittee shall ensure confinement of the area of cannabis cultivation, processing, manufacture, or distribution to the locations depicted on the approved site plan. The commercial cannabis activity shall be set back at least 30 feet from any property line and 600 feet from any school, school bus stop, church or other place of religious worship, or tribal cultural resources, except where a reduction to this setback has been approved pursuant to Section 55.4.11(d).
15. The permittee shall maintain enrollment in Tier 1, 2, or 3, certification with North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R1-2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
16. The permittee shall comply with the terms of any applicable Lake and Stream Alteration (1600 or 1602) Permit obtained from the California Department of Fish and Wildlife (CDFW).
17. The permittee shall comply with the terms of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (CAL FIRE), if applicable.
18. The permittee shall consent to an annual onsite compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday through Friday, 9:00 a.m. to 5:00 p.m., excluding holidays).
19. The permittee shall pay all applicable fees for application review to ensure conformance with conditions and annual inspection fees.
20. Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, including the County of Humboldt's Certified Unified Program Agency (CUPA) program, and in such a way that no spillage occurs.
21. Fertilizer, pesticide, fungicide, rodenticide, or herbicide shall be properly stored, handled, and used in accordance with applicable regulations.
22. The master log books maintained by the applicant to track production and sales shall be maintained for inspection by the County.

23. The permittee shall pay all applicable taxes as required by the Humboldt County Commercial Marijuana Cultivation Tax Ordinance (Humboldt County Code Section 719-1 et seq.).

Performance Standards for Cultivation and Processing Operations

24. Pursuant to the MAUCRSA, Health and Safety Code Section 19322(a)(9), an applicant seeking a cultivation license shall "provide a statement declaring the applicant is an 'agricultural employer,' as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law."

25. Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include federal and state wage and hour laws, California Division of Occupational Safety and Health (Cal/OSHA), OSHA, the California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).

26. Cultivators engaged in processing shall comply with the following Processing Practices:

- a. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
- b. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
- c. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
- d. Employees must wash hands sufficiently when handling cannabis or use gloves.

27. All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:

- a. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
 - (a) Emergency action response planning as necessary;
 - (b) Employee accident reporting and investigation policies;
 - (c) Fire prevention;
 - (d) Hazard communication policies, including maintenance of material safety data sheets (MSDS);
 - (e) Materials handling policies;
 - (f) Job hazard analyses; and
 - (g) Personal protective equipment policies, including respiratory protection.
- b. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
 - (1) Operation manager contacts;
 - (2) Emergency responder contacts; and
 - (3) Poison control contacts.
- c. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.
- d. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.

28. All cultivators shall comply with the approved processing plan as to the following:

- I. Processing practices;
- II. Location where processing will occur;
- III. Number of employees, if any;
- IV. Employee Safety Practices;
- V. Toilet and handwashing facilities;

- VI. Plumbing and/or septic system and whether or not the system is capable of handling increased usage;
 - VII. Drinking water for employees;
 - VIII. Plan to minimize impact from increased road use resulting from processing; and
 - IX. On-site housing, if any.
29. Term of Commercial Cannabis Activity Special Permit. Any Commercial Cannabis Activity Permit issued pursuant to the CMMLUO shall expire one (1) year after date of issuance, and on the anniversary date of such issuance each year thereafter, unless an annual compliance inspection has been conducted and the permittees and the permitted site have been found to comply with all conditions of approval.
30. If the inspector or other County official determines that the permittees or site do not comply with the conditions of approval, the inspector shall serve the permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the noncompliance, or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a re-inspection to determine whether or not the permit holder has cured all issues of noncompliance. Failure to request re-inspection or to cure any items of noncompliance shall terminate the Special Permit, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed pursuant to Section 55.4.13.
31. Permit Renewals to Comply with Updated Laws and Regulations. Permit renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that new standards are met.
32. Acknowledgements to Remain in Full Force and Effect. Permittee acknowledges that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this section in the event that environmental conditions, such as a sustained drought or low flows in the watershed in which the cultivation area is located, will not support diversions for irrigation.
33. Transfers. Transfer of any leases or permits approved by this project is subject to the review and approval of the Planning Director for conformance with CMMLUO eligibility requirements and agreement to permit terms and acknowledgments. The fee for required permit transfer review shall accompany the request. The request shall include the following information:
- a. Identifying information for the new owner(s) and management as required in an initial permit application;
 - b. A written acknowledgment by the new owner in accordance as required for the initial permit application;
 - c. The specific date on which the transfer is to occur;
 - d. Acknowledgement of full responsibility for complying with the existing permit; and
 - e. Execution of an Affidavit of Non-diversion of Medical Cannabis.
34. Inspections. The permit holder and subject property owner are to permit the County or representative(s) or designee(s) to make inspections at any reasonable time deemed necessary to assure that the activities being performed under the authority of this permit are in accordance with the terms and conditions prescribed herein.

Informational Notes:

1. Pursuant to Section 314-55.4.11(a) of the CMMLUO, if upon inspection for the initial application, violations of any building or other health, safety, or other state or county statute, ordinance, or regulation are discovered, the Planning and Building Department may issue a provisional clearance or

permit with a written approved Compliance Agreement. By signing the agreement, the permittee agrees to abate or cure the violations at the earliest opportunity but in no event more than two (2) years after the date of issuance of the provisional clearance or permit. Plans for curing the violations shall be submitted to the Planning and Building Department by the permittee within one (1) year of the issuance of the provisional certificate or permit. The terms of the compliance agreement may be appealed pursuant to Section 314-55.4.13 of the CMMLUO.

2. This provisional permit approval shall expire and become null and void at the expiration of one (1) year after all appeal periods have lapsed (see "Effective Date"), except where the Compliance Agreement per Condition of Approval #B.11 has been executed and the corrective actions pursuant to the agreement are being undertaken. Once building permits have been secured and/or the use initiated pursuant to the terms of the agreement, the use is subject to the Permit Duration and Renewal provisions set forth in Conditions of Approval #B.29 and B.30 of the Ongoing Requirements/Development Restrictions, above.
3. If cultural resources are encountered during construction activities, the contractor on-site shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist and the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and the lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, shellfish or faunal remains, and human burials. If human remains are found, California Health and Safety Code 7050.5 requires that the County Coroner be contacted immediately at 707-445-7242. If the Coroner determines the remains to be Native American, the Native American Heritage Commission will then be contacted by the Coroner to determine appropriate treatment of the remains pursuant to Public Resources Code (PRC) Section 5097.98. Violators shall be prosecuted in accordance with PRC Section 5097.99.

4. The applicant shall be aware that the Federal Government considers the cultivation of cannabis to be an illegal activity. This project is accessed by using roads that pass-through lands owned by the Federal Government. The Federal Government may not allow the applicant to use these roads to transport cannabis. In such case, Humboldt County will not provide relief to the applicant. Approval of this permit does not authorize transportation of cannabis across Federal lands.

ATTACHMENT 2

**CEQA ADDENDUM TO THE
MITIGATED NEGATIVE DECLARATION FOR THE COMMERCIAL MEDICAL MARIJUANA LAND USE ORDINANCE**

**Commercial Medical Marijuana Land Use Ordinance Mitigated Negative Declaration (MND)
(State Clearinghouse # 2015102005), January 2016**

**APN 110-051-029; 246 Parsons Road, Whitethorn (Shelter Cove), CA
County of Humboldt**

**Prepared By
Humboldt County Planning and Building Department
3015 H Street, Eureka, CA 95501**

May 2021

BACKGROUND

Purpose of Addendum

Section 15164 of the California Environmental Quality Act (CEQA) provides that the lead agency shall prepare an addendum to a previously certified Mitigated Negative Declaration (MND) if some changes or additions are necessary, but none of the conditions described in Section 15162 calling for a subsequent EIR or Negative Declaration have occurred. Section 15162 states that when an EIR has been certified for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was certified as complete, shows any of the following: A) the project will have one or more significant effects not discussed in the previous MND; B) significant effect previously examined will be substantially more severe than shown in the previous MND; C) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or D) mitigation measures or alternatives which are considerably different from those analyzed in the previous MND would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Project History

The Commercial Medical Marijuana Land Use Ordinance (CMMLUO) established specific regulations for commercial cannabis operations in Humboldt County. These regulations were developed in concert with the MND that was adopted for the ordinance in order to implement the mitigation measures of the MND. The MND addressed the broad environmental impacts that could be expected to occur from the adoption and implementation of the ordinance. The MND specified that the regulations established in the CMMLUO would mitigate the impacts of existing cannabis operations, by establishing regulations for an existing unregulated land use to help prevent and reduce environmental impacts that are known to result from unpermitted baseline cultivation operations. Commercial cannabis cultivation in existence as of December 31, 2015 was included in the environmental baseline for the MND, and the MND states that "Bringing existing operations into compliance will help to attenuate potential environmental effects from existing cultivation activities, including aesthetic impacts resulting from improper operation or poor siting." The current project was contemplated by the MND, and compliance with the provisions of the CMMLUO will fully mitigate all potential environmental impacts of the project to a less than significant level.

Modified Project Description

The modified project involves a Special Use Permit to allow cannabis processing in a 900 square foot (SF) building and a Conditional Use Permit to allow commercial cannabis cultivation in a proposed 980-SF greenhouse (nursery). This permit application is in accordance with Humboldt County Code Section 314-55.4 of Chapter 4 of Division I of Title III, Commercial Medical Marijuana Land Use Ordinance (CMMLUO).

The parcel (APN 110-051-029) measures approximately 0.31 acres, is zoned C-2-Q-D [Community

Commercial, with Qualified (Q) and Design Review (D) overlays], and is designated Commercial General (CG) in the Humboldt County General Plan.

Proposed development onsite includes a 980-SF greenhouse structure, a 900-SF processing facility, septic tank with primary and reserve leech fields, 12-foot wide gravel driveway/access, and three (3) parking stalls, including one (1) accessible stall with a striped unloading area for people with disabilities.

The cannabis processing facility will not be open to the public and will not accept visitors without a pre-arranged specific business purpose. Hours of operation will typically be from 7:00 AM to 7:00 PM daily. During periods of seasonally high workload, the hours of operation may be expanded to 24 hours per day. However, shipping, receiving, and other traffic or noise generating activities will remain limited to normal business hours (7:00 AM to 7:00 PM daily). The facility will employ one (1) to two (2) persons on a full-time basis. All products will be sold to state-licensed facilities on a wholesale basis. Only authorized representatives of state-licensed customer facilities and appropriately licensed vendors will be allowed to enter the site and/or be in close proximity to the products.

The commercial nursery will not be open to the public and will not accept visitors without a pre-arranged specific business purpose. Hours of operation will typically be from 7:00 AM to 7:00 PM daily, with nursery shipping and receiving hours from 8:00 AM to 6:00 PM. Nursery operations will require one (1) to three (3) employees on a full-time basis. The purpose of the nursery facility is to cultivate immature plants only, and all products will be sold to state-licensed cultivation facilities. Only authorized representatives of state-licensed customer facilities and appropriately licensed vendors will be allowed to enter the site and/or be in close proximity to the products. The nursery operations will be fully enclosed to prevent soil erosion, and any excess water used during cultivation will be recycled and/or evaporated instead of discharged. No cultivation water will be disposed of by discharge.

The site is accessed from Parsons Road, via a proposed gravel driveway. Power is provided to the site via an existing electrical supply line and connection from the Shelter Cove Resort Improvement District 1. Water is provided by the Shelter Cove Resort Improvement District 1. The nursery is estimated to use 33,600 gallons of water per year (2,800 gallons per month). No water storage is proposed on site, and forbearance is not required.

The applicant prepared a Processing Operations Plan & Manual to provide details and technical information regarding access, operations, safety, and chemical/extraction minerals used throughout the processing operations. This technical document is similar to a Cultivation Operations Plan used by cannabis growers. This document is on file with Humboldt County as part of the project file.

The applicant prepared a Nursery Operations Plan & Manual to provide details and technical information regarding the commercial nursery operations, access, safety and water use used regarding the nursery operations. This technical document is similar to the Cultivation Operations Plan used by other cannabis application. This document is on file with Humboldt County as part of the project file.

In August 2018, a Neighborhood Design Survey (NDS) was conducted to determine compatibility with surrounding structures. The NDS determined that the existing commercial metal structure was consistent with other structure within the immediate vicinity, most of which were constructed of T-111 siding (5 occurrences), horizontal lap siding (6 occurrences), metal (2 occurrences), or stucco and lap siding (1 occurrence). No evidence of inconsistency or incompatibility with surrounding structures was documented. The NDS is on file with Humboldt County as part of the project file.

The project was referred to the Resort Improvement District (RID) 1 to consider a request for upgrading the power supply from residential to commercial power. During the December 12, 2020 meeting of the RID Board of Directors, the Board voted unanimously to approve the request (Agenda Item X.2). The minutes for the RID meeting are on file with Humboldt County as part of the project file.

The project is located at 246 Parsons Road, southwest of Parsons Road/Olson Road intersection, in the unincorporated Whitethorn (Shelter Cove) area in southern Humboldt County. The Humboldt County

Department of Public Works (DPW) reviewed the project and did not request a road evaluation report. DPW recommended conditions of approval related to fences/gates (**Condition 12**), site driveway (**Condition 13**), parking lot storm water runoff (**Condition 14**), driveway/private road intersection visibility (**Condition 15**), dedication of an avigation easement (**Condition 16**), and compliance with MS4/ASBS requirements (**Condition 17**).

A records search for known cultural resources was requested from the Northwest Information Center (NWIC) on January 15, 2019. The results indicated that a prior study (#S-185, Fredrickson 175) may have included all or parts of the project site based on the maps, but it was unclear if the researchers surveyed the project site. The NWIC recommended contacting local Native American Tribes to ensure project activities are outside of Tribal Territories. The Bear River Band of the Rohnerville Rancheria was contacted and responded that they are not aware of any known resources on the project parcel, the site does not appear to be particularly sensitive, and the Inadvertent Discovery Protocol should be applied (**Condition 11**).

The modified project is consistent with the adopted MND for the CMMLUO because it complies with all standards of the CMMLUO, which were intended to mitigate impacts of existing cultivation.

Summary of Significant Project Effects and Mitigation Recommended

No changes are proposed for the original MND recommended mitigations. The proposal to authorize a 900-SF cannabis processing building and a 980-SF greenhouse for a commercial cannabis nursery is fully consistent with the impacts identified and adequately mitigated in the original MND. The project as conditioned to implement responsible agency recommendations, results in no significantly adverse environmental effects beyond those identified in the MND. Compliance with the CMMLUO ensures consistency with the adopted MND and provides for mitigation of all project related impacts to a less than significant level.

In reviewing the application for consistency with the adopted MND, the County considered the following information and studies, among other documents.

- Site Plan prepared by Pacific Affiliates, dated March 12, 2018
- Processing Operations Plan & Manual, prepared by Lenders Construction Services, LLC, dated February 2018, and Addendum for Manual, received January 5, 2021
- Nursery Operations Plan & Manual, prepared by Lenders Construction Services, LLC, dated February 2018
- Bear River Band of the Rohnerville Rancheria email communication, dated May 15, 2019
- Northwest Information Center (NWIC) records search, dated January 15, 2019
- Humboldt County Department of Public Works Inter-Departmental review, dated January 16, 2019
- Humboldt County Road Evaluation Report, prepared by applicant, dated August 23, 2018
- Shelter Cove Resort Improvement District Board of Director Meeting Minutes, dated December 17, 2020

EXPLANATION OF DECISION NOT TO PREPARE A SUPPLEMENTAL MITIGATED NEGATIVE DECLARATION OR ENVIRONMENTAL IMPACT REPORT

Purpose - Section 15164 of the CEQA Guidelines provides that the lead agency shall prepare an addendum to a previously certified MND if some changes or additions are necessary, but none of the conditions described in Section 15162 calling for a subsequent EIR or Negative Declaration have occurred. Section 15162 states that when an EIR has been certified for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

1. Substantial changes are proposed in the project which require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

2. Substantial changes occur with respect to the circumstances under which the project is undertaken, which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was certified as complete, shows any of the following: A) the project will have one or more significant effects not discussed in the previous MND; B) significant effect previously examined will be substantially more severe than shown in the previous MND; C) mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or D) mitigation measures or alternatives which are considerably different from those analyzed in the previous MND would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

For every environmental topic analyzed in this review, the potential environmental impacts of the current project proposal, Kenneth Holland (13194) would be the same or similar, with no substantial increase in severity, than the initial CMMLUO project for which the MND was adopted. Based upon this review, the following findings are supported.

FINDINGS

1. The proposed project will permit an existing cannabis operation and bring the operation into compliance with county and state requirements intended to adequately mitigate environmental impacts.
2. The circumstances under which the project was approved have not changed substantially. There are no new significant environmental effects and no substantial increases in the severity of previously identified effects.
3. For the current proposed project, there has been no new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous MND was adopted as complete.

CONCLUSION

Based on these findings, it is concluded that an Addendum to the certified MND is appropriate to address the requirements under CEQA for the current project proposal, Kenneth Holland (13194). All of the findings, mitigation requirements, and mitigation and monitoring program of the MND, remain in full force and effect on the original project.

ATTACHMENT 3

Applicant's Evidence in Support of the Required Findings

Attachment 3 includes a listing of all written evidence which has been submitted by the applicant in support of making the required findings. The following materials are on file with the Planning Division.

1. The name, contact address, and phone number(s) of the applicant. **(On file)**
2. If the applicant is not the record title owner of parcel, written consent of the owner for the application with original signature and notary acknowledgement. **(On file)**
3. Site plan showing the entire parcel, including easements, streams, springs, ponds and other surface water features, and the location and area for cultivation on the parcel with dimensions of the area for cultivation and setbacks from property lines. The site plan shall also include all areas of ground disturbance or surface water disturbance associated with cultivation activities, including access roads, water diversions, culverts, ponds, dams, graded flats, and other related features. If the area for cultivation is within one-quarter mile (1,320 feet) of a school, school bus stop, church or other place of religious worship, public park, or tribal cultural resource, the site plan shall include dimensions showing that the distance from the location of such features to the nearest point of the cultivation area is at least 600 feet. (Site Plan prepared by Pacific Affiliates, dated March 2018, **Attached**)
4. An operations plan (Processing and Nursery plans) that meets or exceeds minimum legal standards for water source, storage, irrigation plan, conservation, and projected use; drainage, runoff and erosion control; watershed and habitat protection; and storage of fertilizers, pesticides, and other regulated products to be used on the parcel. A description of cultivation activities (outdoor, indoor, mixed light); the approximate date(s) cannabis cultivation activities have been conducted on the parcel prior to the effective date of this ordinance, if applicable; and schedule of activities during each month of the growing and harvesting season. (Processing Operations Plan & Manual, prepared by Lenders Construction Services, LLC, dated February 2018, and Addendum for Manual, received January 5, 2021 and Nursery Operations Plan & Manual, prepared by Lenders Construction Services, LLC, dated February 2018 – **On file**)
5. Copy of the statement of water diversion, or other permit, license or registration filed with the State Water Resources Control Board, Division of Water Rights, if applicable. **(Not applicable)**
6. Description of water source, storage, irrigation plan, and projected water usage. (Included in Nursery Operations Plan - see item 4 above)
7. Copy of Notice of Intent and Monitoring Self-Certification and other documents filed with the North Coast Regional Water Quality Control Board (NCRWQCB) demonstrating enrollment in Tier 1, 2 or 3, NCRWQCB Order No. 2015-0023, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency. **(Not applicable)**
8. If any on-site or off-site component of the cultivation facility (including access roads, water supply, grading or terracing) impacts the bed or bank of any stream or other watercourse, a copy of the Lake and Streambed Alteration Permit obtained from the California Department of Fish and Wildlife. **(Not applicable)**
9. If the source of water is a well, a copy of the County well permit, if available. **(Not applicable)**
10. If the parcel is zoned FR, U or TPZ, or involves the conversion of timberland as defined under Section 4526 of the Public Resources Code, a copy of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (CAL FIRE).

Alternately, for existing operations occupying sites created through prior unauthorized conversion of timberland, evidence may be provided showing that the landowner has completed a civil or criminal process and/or entered into a negotiated settlement with CAL FIRE. **(Not applicable)**

11. Consent for on-site inspection of the parcel by County officials at prearranged date and time in consultation with the applicant prior to issuance of any clearance or permit, and once annually thereafter. **(On file)**
12. For indoor cultivation facilities, identification of the source of electrical power, how it will meet the energy requirements in Section 55.4.8.2.3, and the plan for compliance with applicable building codes. (Included in Nursery Operations Plan - see item 4 above)
13. Acknowledgment that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this Section, in the event that environmental conditions, such as a sustained drought or low flows in the watershed, will not support diversions for irrigation. **(On file)**
14. Acknowledgment that the County reserves the right to engage with local tribes before consenting to the issuance of any clearance or permit, if cultivation operations occur within an Area of Traditional Tribal Cultural Affiliation, as defined herein. This process will follow current departmental referral protocol, including engagement with the tribe(s) through coordination with their Tribal Historic Preservation Officer (THPO) or other tribal representatives. This procedure shall be conducted similar to the protocols outlined under SB 18 (Burton) and AB 52 (Gatto), which describe "government to government" consultation, through tribal and local government officials and their designees. During this process, the tribe may request that operations associated with the clearance or permit be designed to avoid, minimize, or mitigate impacts to tribal cultural resources, as defined herein. Examples include, but are not limited to, conducting a site visit with the THPO or their designee to the existing or proposed cultivation site, requiring that a professional cultural resources survey be performed, or requiring that a tribal cultural monitor be retained during project-related ground disturbance within areas of sensitivity or concern. The County shall request that a records search be performed through the California Historical Resources Information System (CHRIS). **(On file)**
15. Division of Environmental Health Attachment for Commercial Medical Marijuana (CMM) Clearances/ Permits (DEH Form). **(On file)**

ATTACHMENT 4

REFERRAL AGENCY COMMENTS AND RECOMMENDATIONS

The project was referred to the following agencies for review and comment. The agencies that provided written comments are indicated with a check under Response.

Referral Agency	Response	Recommendation	Location
Humboldt County Department of Health & Human Services	✓	Approved	On file
Bear River Tribal Band of the Rohnerville Rancheria	✓	Approved	On file
CAL FIRE	✓	Approved	On file
Northwest Information Center (NWIC)	✓	No recommendation	On file
Humboldt County Public Works Department	✓	Approved with conditions	On file
Shelter Cover Resort Improvement District	✓	Approved	On file

ATTACHMENT 5
PUBLIC COMMENTS

Kenneth Holland

246 Parsons Rd.

PLN: 13194-CUP

APN: 110-051-029

Hearing Date: June 17, 2021

The Planning Commission must be aware that there are severe impacts that approval of this proposed project will bring and that mitigation must be included in the requirements and/or rejection as an inappropriate proposed use since it is located in a primarily residentially zoned neighborhood.

- The fact the parcel in question was zoned commercial fifty-seven (57) years ago when the county approved the sub-division map never, in anyone's wildest dream, took into consideration that it might be used for a commercial cannabis operation. Outside of two additional adjacent commercially zoned parcels, the hundreds of parcels surrounding the proposed project are all zoned residential and it can be easily said that people who have families will be hesitant to build and raise their children in such close proximity to such an operation. This is not to mention the potential negative impact it will have on property values.
- Zoned C-2 or Community Commercial, there is no way, even under any Principally Permitted Uses, that this meets the definition or intent of "Community". And even if it does technically meet the definition, I do not think the possibility of a project being located in a residential neighborhood was ever considered.
- The Lease Agreement included in the file was for two years and **expired 12/31/2020**. There is no indication or documentation it has been extended which would mean a key component of the application is null and void.
- Parking is not sufficient if the combined square footage (1880) of the two proposed structures is taken into account, especially since there is no on-street parking allowed in Shelter Cove.
- While the FTE count has been reduced per the Addendum, there has been no updated revision to the CUP – Environmental Health review or discussion of the septic system proposed.
- While the Processing Operations plan original FTE has been reduced, the fact that there might be twenty-four (24) hour operations in a quiet residential neighborhood and the noise accompanying employee comings and goings at all hours is not acceptable and should be mitigated.
- The security proposed for the site is totally insufficient. Seeing response time from Eureka is greater than two (2) hours most nights and weekends, if not longer - if at all,

the access, lighting and alarm will, in no way, deter a “Home Invasion” type scenario endangering both existing and future residents and their children along with any employees that happen to be on site.

- The existing six (6) foot fence surrounding the property will have to be modified to allow access for the proposed development but past grows on the property were reasonably well screened from view if not satellites (re: Notice of Violation from 2/2020). There is no indication of the overall dimensions of the enormous greenhouse proposed just the square footage (980 sq. ft.) Of biggest concern is the height and visual blight as larger greenhouses can reach twelve feet at their peak.
- There is no discussion in the paperwork of the impact this much cultivation will have on the issue of smell and how it would be addressed as it could easily permeate the neighborhood and cause a significant impact on property values.
- Since the owner of this parcel did not consolidate it with the adjacent one where a 2,000 square foot facility is to be located in the existing metal building (13188), the two projects should be considered as a whole, not arbitrarily separated from consideration and the review should encompass the impact of both.

Respectfully submitted,

/s/ Jim Ferguson

Shelter Cove