

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; Meeting on \_\_\_\_\_, 2022

Resolution No. 22-\_\_\_ Resolution of the Board of Supervisors of the County of Humboldt ADOPTING FINDINGS OF FACT, CONSIDERING THE ADDENDUM TO A PREVIOUSLY ADOPTED ENVIRONMENTAL IMPACT REPORT PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, APPROVING THE APPEAL FOR RECORD NO. PLN-2021-17162-A, DENYING THE APPEAL FOR RECORD NO. PLN-2022-17769-A, AND APPROVING THE NAVA RANCH, LLC SPECIAL PERMIT RECORD NO. PLN-2021-17162.

**WHEREAS**, Humboldt County adopted the Commercial Cannabis Land Use Ordinance (CCLUO) Ordinance on May 8, 2018, after certifying an Environmental Impact Report; and

**WHEREAS**, Nava Ranch, LLC submitted an application and evidence in support of approving a Special Permit for expansion of approved project PLN-12657-SP to allow up to 43,560 square feet (SF) of mixed light cultivation and 2,500 SF of indoor cultivation; and

**WHEREAS**, the Planning and Building Department reviewed the application and supporting evidence and referred the application materials to applicable reviewing agencies for site inspections, comments and recommendations; and

**WHEREAS**, on May 5<sup>th</sup>, 2022, the Planning Commission adopted a Resolution which did the following:

1. Considered the Addendum to the Environmental Impact Report for the Commercial Cannabis Land Use Ordinance that was prepared for the Nava Ranch, LLC project; and
2. Found based on the submitted substantial evidence that the proposed project complies with the General Plan and Zoning Ordinance and made all findings for approval; and
3. Approved the Special Permit under record No. PLN-2021-17162 as recommended and conditioned by staff with a reduction to the square footage as follows:

The expansion of the square footage shall be reduced to 15,000 square feet, such that the total mixed light square footage can only be 24,300 square feet.

**WHEREAS**, LaDonna Haga, Gary Haga, & Maureen Catalina (“opposing appellant”) on

May 17<sup>th</sup>, 2022, filed an appeal in accordance with the Appeal Procedures specified in Humboldt County Code Section 312-13 et seq.; and

**WHEREAS**, Rain & Zepp, PLC, representing Nava Ranch, LLC (“proposing appellant”) on May 19<sup>th</sup>, 2022, filed an appeal in accordance with the Appeal Procedures specified in Humboldt County Code Section 312-13 et seq.; and

**WHEREAS**, the Board of Supervisors opened a duly-noticed public hearing, *de-novo*, on June 13<sup>th</sup>, 2022; and

**WHEREAS**, the Board of Supervisors closed the public hearing on June 13<sup>th</sup>, 2022, and adopted a motion to deny appeal #1, to approve appeal #2, and to approve the Special Permit.

**Now, THEREFORE BE IT RESOLVED**, that the Board of Supervisors makes all the following findings:

1.	<b>FINDING:</b>		<p><b>Project Description:</b> A Special Permit to expand an approved permit (PLN-12657-SP) for 6,600 square feet of mixed light cultivation, 2,700 square feet of outdoor cultivation, and 2,500 square feet of indoor cultivation up to 43,560 square feet (SF) of mixed light cultivation in twelve (12) greenhouses and 2,500 SF of indoor cultivation in a converted barn. All water will be sourced by rainwater catchment from an existing pond, a proposed pond, and an existing rooftop rainwater catchment system. The estimated water needed annually for irrigation is approximately 550,000 gallons (11.94 gal/sq.ft./yr). The ponds will total approximately 1,050,000 gallons of storage, and twelve (12) 5,000-gallon tanks are proposed, for a total of 1,110,000 gallons of water storage. There is also one separate 5,000-gallon tank designated for fire suppression. Drying, trimming, and processing will occur onsite in the existing 900 SF storing, processing, and packaging building. Operations will utilize one (1) full-time employee, up to three (3) additional seasonal employees, and up to four (4) family members, totaling eight (8) laborers. There is a portable restroom facility on site for employees, and a cannabis support building is proposed with an additional septic system. Power is sourced from PG&amp;E via a green energy program and there is an existing solar array onsite featuring six (6) panels with outputs of 235 watts each. There is a 25-kilowatt (kW) Whisperwatt generator kept onsite for emergency use only.</p>

	<b>EVIDENCE:</b>	a)	Project File: PLN-2021-17162
2.	<b>FINDING:</b>		<b>CEQA.</b> The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Board of Supervisors considered the Addendum to and the Environmental Impact Report (EIR) prepared for the Commercial Cannabis Land Use Ordinance (CCLUO) adopted by the Humboldt County Board of Supervisors on May 8, 2018.
	<b>EVIDENCE:</b>	a)	Addendum prepared for the proposed project.
		b)	The proposed project is consistent with the provisions of the Ordinance for which the EIR was prepared and does not present substantial changes that would require major revisions to the previous EIR. No new information of substantial importance that was not known and could not be known at the time was presented as described by §15162(c) of CEQA Guidelines.
		c)	The project is conditioned to enroll in the State Water Resource Control Board Order No. WQ 2019-0001-DWQ, and to have a Site Management Plan prepared to show measures required to meet compliance with the standard conditions of the Order.
		d)	The applicant is required to adhere to inadvertent discovery protocols for archaeological resources.
		e)	An Invasive Species Control Plan was prepared for the project, and the applicant is conditioned to adhere to the recommendations within the Plan.
		f)	Consistent with the EIR for the CMMLUO, a Biological Reconnaissance Survey Report was prepared by Naiad Biological Consulting dated April 7th, 2021, and a Botanical Survey Report was prepared by Michael Weldon dated July 8th, 2021. The recommendations of these reports have been included in the conditions of approval which will be implemented prior to commencing activities onsite.
		g)	The Cultivation and Operation Plan states that the only water sources are via rainwater catchment, so no instream work is required for the project.
			<b>FINDINGS FOR SPECIAL PERMIT</b>
3.	<b>FINDING</b>		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 Agriculture Exclusive (AE) 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.

b)

The site has been determined to be in an area of Moderate Instability for seismic safety, and the applicant has obtained an R-2 Soils Report (RSR) for the proposed development. The RSR was prepared by Allan Baird of A.M. Baird Engineering and Surveying, Inc. The RSR states that the entire property appears stable and should continue to be stable, provided that the report's recommendations are followed.

There is a Grading and Erosion Control Plan which proposes grading of slopes which are greater than 15%, however the as-built grading plan within that plan shows that these slopes are likely a result of previous grading activities associated with the existing cultivation from PLN-12657-SP, so those slopes have been considered pre-disturbed area.

c)

The subject parcel contains one (1) Class II watercourse and one (1) Class III watercourse which were identified in the Biological Reconnaissance Survey Report (BRSR) prepared for the site. No hydric soils were found in the two (2) test pits dug into the most probable areas with proximity to the project site, so it is unlikely that any wetland habitats have potential to be impacted by the proposed project. Because of this, a protocol-level wetland determination was not performed and is not recommended by the BRSR. A 150 ft buffer from the edge of the Class II watercourse and a 50 ft buffer from the edge of the Class III watercourse are recommended by the BRSR, and the project area is well outside of each of these buffers. Map 3 in the BRSR shows the location of these watercourses and their buffers in relation to the project area.

**4. FINDING**

The proposed development is consistent with the purposes of the existing AE zone in which the site is located.

**EVIDENCE**

a)

The Agriculture Exclusive or AE zone is intended to be applied to areas of the County in which agriculture is and should be the

desirable predominant use and in which the protection of this use from encroachment from incompatible uses is essential to the general welfare.

b) All general agricultural uses are principally permitted in the AE zone.

c) Humboldt County Code section 55.4.6.1.2 (b) allows cultivation of up to 43,560 square feet of new outdoor and mixed light cannabis cultivation on a parcel over 10 acres, subject to approval of a Special Permit, in AE, AG, FR, and U zones, provided that the U zone is accompanied by a Resource Production General Plan land use designation. The application for new operation of 43,560 square feet of mixed light cultivation on a 37-acre parcel is consistent with this.

**5. FINDING**  The proposed development is consistent with the purposes of the existing B-5(160) combining zone in which the site is located.

**EVIDENCE** a) The Special Building Site Combining of B Zones are intended to be combined with any principal zone in which sound and orderly planning indicate that lot area and yard requirements be modified. Zones with a minimum lot size of 2.5 acres or greater have their setbacks modified to 20 feet from the front yard and rear yard lot lines, and 30 feet from the interior side yard lot lines. The subject parcel does not have exterior side yard lot lines, and the project is within all of these setbacks.

b) The B-5(160) zone sets a minimum building site area of 160 acres. The size of the parcel is not proposed to change as a part of this Special Permit.

**6. FINDING**  The proposed development is consistent with the requirements of the CCLUO Provisions of the Zoning Ordinance.

**EVIDENCE** a) The CCLUO allows up to 1-acre of new commercial cannabis cultivation to be permitted in areas zoned AE (HCC 314-55.4.6.1.2 (b)) with a Special Permit.

b) The subject parcel has been determined to be one legal parcel as shown on the Parcel Map recorded in Book 107 of Parcel Maps page 10 and created by creation deed in 1934 in Book 215 of Deeds, page 141.

c) The project will obtain water from a non-diversionary water source.

	d)	Access to the site is from Landergen Road, a paved County-maintained Road, and from Smith-Etter Road, a dirt road maintained by the Bureau of Land Management. The applicant for PLN-12657-SP submitted a road evaluation report for Landergen Road and Smith-Etter Road self-certifying that both are developed to the equivalent of a Category 4 road standard. It has been determined that the access roads meet the functional capacity required for the project.
--	----	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	e)	Some of the slope of the land where cannabis will be cultivated and development is proposed is presently greater than 15% due to grading associated with the historic cultivation. The pre-disturbed area will be graded to slopes of less than 15% prior to further development and cultivation.
--	----	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	f)	No timber conversion has occurred or is proposed on the project site.
--	----	-----------------------------------------------------------------------

	g)	The location of the cultivation complies with all setbacks required in Section 314-55.4.6.4.4 (a-f). It is more than 30 feet from any property line, more than 300 feet from any off-site residence, more than 270 feet from any adjacent undeveloped parcel, more than 600 feet from any school, church or other place of religious worship, Tribal Cultural Resource, or school bus stop, and more than 1,000 feet from any known Tribal Ceremonial Sites. The proposed cultivation is roughly 100 feet from Kings Range National Conservation Area on the adjacent property and the proposed rainwater catchment pond is roughly 30 feet from the Kings Range National Conservation Area. PLN-12657-SP included a setback reduction permit allowing cultivation nearer to the Kings Range National Conservation Area, while this proposed expansion will be further back from what was approved, given that it is an expansion staff believes this requires an additional setback reduction to be approved for the expanded cultivation.
--	----	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<b>7.</b>	<b>FINDING</b>		The cultivation of 43,560 square feet of new mixed light 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.
-----------	----------------	--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

	<b>EVIDENCE</b>	a)	Landergen Road and Smith-Etter Road have been self-certified by the applicant to be developed to the equivalent of a Category 4 road standard and are County-maintained and Bureau of Land Management-maintained respectively.
--	-----------------	----	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

- b) The location of the proposed cannabis cultivation is more than 300 feet from the nearest off-site residence and more than 270 feet from any adjacent undeveloped parcel.
- c) All irrigation water will come from rainwater catchment.
- d) The slope where portions of the project will occur are presently greater than 15% due to grading associated with the historic cultivation. The pre-disturbed area will be graded to slopes of less than 15% prior to further development.

**8. FINDING**  The proposed development does not reduce the residential density for any parcel below that utilized by the Department of Housing and Community Development in determining compliance with housing element law.

**EVIDENCE** a) The parcel was not included in the housing inventory of Humboldt County's 2019 Housing Element but does have residence on the parcel. The approval of cannabis cultivation on this parcel will not conflict with the ability for this residence to be used.

b) The parcel's land use is Agricultural Grazing, which has a density range of 20 to 160 acres per unit. The parcel has two residential units and is assessed at 37 acres, so the onsite density of 18.5 acres per unit, below the acceptable range, so additional residences could not be approved in the future.

**9. FINDING**  **APPEAL #1**  
 The grounds for appeal #1 are not adequate to warrant granting the appeal. The opposing appellant complains that impacts were not adequately addressed in the approval of the Special Permit, however the impacts have been addressed as part of the project approval.

**EVIDENCE** a) The opposing appellant commented that the site had been operated in violation of the night dark sky requirements of the County Code. This is found to be without merit for the following reasons:

- i. A site visit conducted by county staff shortly after these allegations were submitted found no fans or lighting in any of the currently operating greenhouses. Light shielding tarps were in place and fully functional. Low wattage fluorescent lights were stored in the on-site residential garage.

i. Prior to the public notice for this project the County Planning and Building Department had never received a complaint about light or noise about this site. This site is clearly visible from Wilder Ridge Road, and Smith-Etter Road runs immediately adjacent to the existing operation. Both of these roadways are relatively heavily traveled and the County has not received light or noise complaints against this site.

b)

The opposing appellant claims there is no evidence of sufficient power. The project has been conditioned to ensure there is sufficient power. A condition of approval has been added to require wattage not to exceed 6 watts per square foot (COA B.2). The condition was modified by the Planning Commission to specify that the use of a generator is not allowed. The opposing appellant also argues that the lack of energy calculations estimating the potential energy use of the project is grounds for denial. The Planning Commission added a condition to address this by requiring that the applicant provide documentation that there is sufficient power on the site prior to initiating the expanded cultivation (COA A6.) The project as approved by the Planning Commission does address and require there be sufficient power for the mixed light cultivation as proposed.

The opposing appellant also argues that renewable energy programs do not exist, appearing to interpret them as carbon credits, however Redwood Coast Energy Authority (RCEA) and Pacific Gas & Electric (PG&E) partnered to create the Repower+ program, which provides 100% renewable energy to those who opt-in at a slightly higher rate.

c)

The opposing appellant claim the applicants run a loud generator all day and night and this is audible from adjacent residences. While on-site County staff measured the noise from the generator at full load. Noise levels at full load were measured with a properly calibrated noise meter at 75 dbA at a distance of 5 feet, 50 dbA at a distance of 100 feet, and 35 dbA at a distance of 200 feet, at which point the generator is no longer audible. The generator was also not audible at the nearest public road, Smith-Etter Road. All property lines and residences are further away from where the measurements were taken. County staff did visually identify a 25-kw generator located on the property not in proximity to the cultivation. Per the applicant this was left on the property from the previous landowner and is not functional. As noted above the Planning Commission added a condition prohibiting the use of generator as a primary



power source.

- d) The opposing appellant claims the employee count is under-reported. An on-site showed there were a total of four employees/operators on the property and less than 10,000 square feet of cannabis was actively in cultivation. This employee count does appear low compared to similar sized operations however the applicant insists that this can be accomplished. The number of employees is a factor that is used to determine permit compliance and violation of this could result in revocation of the permit.
- e) The opposing appellant claims the water use projections are low. The amount of water use proposed in the operations plan is consistent with other applications at 11.9 gallons per square foot of cultivation area. This includes the perception that mixed light and indoor intuitively should require more water use due to more crops in a given year. Indoor and mixed light cultivation involves smaller plants that typically require less water. In addition, the proposed 750,000-gallon rainwater catchment pond will be sufficient to account for any overage in their irrigation needs.
- f) The opposing appellant claims the general site is not maintained in a clean and orderly manner. Staff found the site to be in good condition with no substantial visible trash or waste.
- g) The opposing appellant claims there is no State Water Board expresses concern about erosion and sedimentation running into Honeydew Creek. The applicant is currently enrolled with the Water Board (WDID#1\_12CC403232) with no listed violations.
- h) The opposing appellant express concerns regarding public access to the Bureau of Land Management road appear to be based on the belief that the gate to the private driveway on the site blocks public access. This driveway is not a public access point and the Bureau of Land Management confirmed this in an email on May 4th, 2022. The public access to Smith-Etter Road itself is closed seasonally by BLM and will not be blocked or moved as a result of this project.
- i) The opposing appellant claims the Road Evaluation is not sufficient. County staff found that the road was in good condition and capable of supporting the low traffic associated with both this project and the adjacent approved cannabis site. While not a Category 4 roadway, Landergen Road is a County-maintained Road which only serves

this site and one other.

j)

The opposing appellant cites that no Noise Study has been prepared. It is true that no noise study had been prepared prior to the hearing on March 17th, 2022, a noise study was prepared before the hearing on May 5th, 2022. This noise study determined that ambient noise levels average between 35 and 37 decibels and the project is conditioned to not go over three decibels above that noise level for the life of the project. Since the Noise Study was taken during intermittent stormy and windy weather, the project is conditioned to prepare an additional noise study during better conditions to establish a baseline.

k)

The opposing appellant claims the applicant does not participate in community efforts. The opposing appellant claims that the applicant has not attempted to join or assist with community efforts such as the Neighborhood Emergency Services Teams (NEST) coalition, including a member list without their name on it. While this may be true, it does not specifically relate to any of the required findings for approval of the project.

l)

The opposing appellant expresses concern with the lack of coordination with the Bureau of Land Management (BLM). However, there has been coordination with the BLM. Due to the proximity of the project to Kings Range National Conservation Area, the project was referred to the BLM on April 26th, 2021. On April 1st, 2022, BLM corresponded with the County stating that a comment letter was being prepared and would be completed before the end of the following week. For the previous project, PLN-12657-SP, BLM's comment requested the parcel be surveyed by a licensed professional land surveyor to ensure that trespass onto public lands does not occur. A field boundary survey was performed on September 7, 2018, by Wallace E. Wright, a licensed land surveyor, and the plot plan resulting from that survey indicated that the house onsite was 192 feet from the property line and that the driveway connecting Landergen Road and Smith-Etter Road is located entirely on the subject parcel, (107-106-006.)

On April 12th, 2022, BLM submitted a comment letter raising significant concerns over this project and the requested setback reduction. The concerns from BLM are addressed as follows:

i. BLM stated that since Smith-Etter Road provides vehicular

access to public campground, trails and recreational areas this roadway should similarly be considered a recreational area under the code for which no setback reduction should be granted. BLM and other federal agencies own and maintain many public roads throughout Humboldt County and these roadways have never been considered a recreational area for the purposes of compliance with the CCLUO requiring a 600- foot setback from publicly owned property. Of note is that Smith-Etter Road in this location is an easement with the underlying land owned by the applicant. BLM suggests that a road easement across the applicant's property be treated as public open space. The 600-foot setback from publicly owned property was to ensure that public resource values are maintained, the roads leading to public lands have never been considered part of the resource value to be protected.

ii. BLM stated that the applicant does not have a right of way over the portion of Landergen Road that comes off of Wilder Ridge Road since this portion is on underlying BLM property. This road is a county-maintained road with a County easement for such use.

ii. BLM raised questions about the source of water that is from a point of diversion. This appears to be a misunderstanding as the existing water source is a pond fed from rainwater catchment and an additional 750,000-gallon rainwater catchment pond is proposed. The registered POD is not being utilized for the cannabis operation.

iv. BLM raised concern over impacts to Coho and Chinook salmon, and steelhead in Bear Trap Creek and Honeydew Creek which are near the site. These are tributaries to the Mattole River which are sediment impaired under the Clean Water Act. The proximity of this project has the potential to deliver nutrients and other pollutants to both Bear Trap and Honeydew Creeks. Bear Trap Creek is over 600 feet away from the project and Honeydew Creek is over 1,300 feet away and on the other side of two public roads from the project. All cannabis farms are regulated by the Regional Water Quality Control Board and are subject to strict requirements to preclude sediment and other pollutants from being released into surface waters.

v. BLM raised concern over the proximity of this site to a Northern Spotted Owl (NSO) critical habitat. The nearest NSO activity center is over 2 miles away, which is far beyond the distance discussed in the EIR for the CCLUO as a potential impact to NSO

from operation of cannabis facilities, and the Biological Study determined that, although there is moderate suitable habitat for NSOs surrounding the area, if recommendations are followed, then all potential direct or indirect impacts to the species can be mitigated.

m) The opposing appellant contents that the Conditions of Approval are confusing, and it is unclear what was ultimately approved. The project description including the operations plan, plans and other information in the file define the project. The conditions imposed on the project then modify what is shown on the plans or modify how the use is to be conducted. The only thing unclear is that the Planning Commission reduced the size of the cultivation area. The plans do not show this reduction in area. This is not an issue as the allowed footprint will be refined when the applicant comes in to start cultivation, they will provide a revised site plan for 24,300 square feet of cultivation area rather than 43,560 square feet. The location of the reduced square footage would be within the footprint of the greenhouses on the site plan.

**Appeal #2**

**10. FINDING**  The grounds for appeal #2 are adequate to warrant granting the appeal to eliminate the reduction.

**EVIDENCE** a) Nava Ranch, LLC is appealing the decision to reduce the proposed mixed light square footage from 43,560 square feet to 24,300 square feet, citing that the modification during the hearing was unnecessary to attain either code compliance or conformity with neighboring land use practices.

b) The Planning Commission discussed that they could support a reduction in square footage but did not address how this addresses the concerns expressed by the public relative to water use, electricity use, violations of dark sky standards and use of the road. It is not clear how the reduction in square footage addresses any concern which raises the question of whether the reduction in square footage is appropriate.

c) The policy of the Board of Supervisors is that if a project is going to be modified, that there be findings and evidence explaining the impact being addressed and how the change addresses the concerns.

In this case no findings were made to describe why the change was made.

**NOW, THEREFORE**, based on the above findings and evidence, the Humboldt County Board of Supervisors does hereby:

- a. Finds that the Board of Supervisors has considered the addendum to the Environmental Impact Report for the Commercial Cannabis Land Use Ordinance that has been prepared for the Nava Ranch, LLC project and found the project consistent with the adopted EIR pursuant to Section 15164 of the State CEQA Guidelines.
- b. Denies the Appeal filed by LaDonna Haga, Gary Haga, & Maureen Catalina.
- c. Approves the Appeal filed by Nava Ranch, LLC.
- d. Approves the Special permit for Humboldt's Own LLC subject to the recommended conditions of approval in Attachment 1.

The foregoing Resolution is hereby passed and adopted by the Board of Supervisors on June 13<sup>th</sup>, 2022, by the following vote:

Adopted on motion by Supervisor , seconded by Supervisor and the following vote:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

Virginia Bass

\_\_\_\_\_, Chair  
Humboldt County Board of Supervisors

STATE OF CALIFORNIA)) SS. County of Humboldt

I, Kathy Hayes, Clerk of the Board of Supervisors of the County of Humboldt, State of California do hereby certify the foregoing to be a full, true, and correct copy of the original made in the above-titled matter by said Board of Supervisors at a meeting held in Eureka, California as the same now appears of record in my office.

In Witness Whereof, I have hereunto set my hand and affixed the Seal of said Board of Supervisors.

KATHY HAYES Clerk of the Board of Supervisors of the County of Humboldt, State of California

By: KATHY HAYES

Date: \_\_\_\_\_, 2022

By \_\_\_\_\_ Deputy

## **EXHIBIT 1**

### **ATTACHMENT 1**

#### **RECOMMENDED CONDITIONS OF APPROVAL**

#### **APPROVAL OF THE SPECIAL PERMIT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS, WHICH MUST BE SATISFIED BEFORE THE PROJECT MAY BEGIN OPERATING**

##### **A. General Conditions:**

1. Approval of this permit results in the expiration of the original permit, PLN-12657-SP. If this approved permit, PLN-2021-17162, is revoked, there would be no permit remaining.
2. 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.
3. 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.
4. The Applicant is responsible for costs for post-approval review for determining project conformance with conditions. A deposit is collected to cover this staff review. Permit conformance with conditions must be demonstrated prior to release of building permit or initiation of use and at 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.
5. A Notice of Determination (NOD) will be prepared and filed with the County Clerk for this project in accordance with the State CEQA Guidelines. The Department will file the NOD and will charge this cost to the project.
6. Prior to expansion of the cultivation area, the applicant shall demonstrate with documentation from a qualified professional that there is sufficient power on the site to serve the cultivation activities and the residences on site. The power may come from

PG&E or from a renewable source of power. Generator use is not allowed as a primary power source and may only be used as backup power.

7. All power shall be sourced from PG&E's RePower Plus or other renewable energy program and/or on-site solar energy or other on-site renewable energy. The applicant shall submit evidence of enrollment in the renewable energy program at each annual inspection or as otherwise requested by Planning staff.
8. The applicant shall secure permits for all structures related to the cannabis cultivation and other commercial cannabis activity, including but not limited to up to thirteen (13) greenhouses, one (1) indoor cultivation building, one (1) drying and processing building, one (1) chemical storage building, the new rainwater catchment pond, and any other structures with a nexus to cannabis. The plans submitted for building permit approval shall be consistent with the project description and the approved project site plan. A letter or similar communication from the Building Division verifying that all structures related to the cannabis cultivation are permitted will satisfy this condition.
9. The applicant shall secure all required grading permits from the Building Inspection Division for all earthwork performed (i.e. unpermitted grading) and proposed related to the cannabis operation.
10. The applicant shall adhere to the implementation measures within the Grading, Drainage & Erosion Control Plan and the R-2 Soils Report. A letter or similar communication from the project engineer or architect stating that all work has been completed in the Grading, Drainage & Erosion Control Plan shall satisfy this requirement.
11. The project shall enroll in the SWRCB's General Order (WQ 2019-0001-DWQ) prior to commencing cultivation activities onsite, and shall submit a Notice of Applicability letter or Notice of Receipt as proof of enrollment before cultivation activities can occur.
12. Prior to construction activities, the applicant shall complete the following pre-construction surveys and the results shall be submitted to the Planning Division showing no presence of any rare, threatened, or special-status species within the proposed development area.
  - a. If loud construction or any vegetation removal will occur between February 1st and August 31st, the completion of bird surveys by a biologist a couple of weeks prior to construction activities to address the presence of any migratory or nonmigratory birds which may have constructed nests in any of the trees within a proximity to the project and may be impacted by noise disturbance.
  - b. The completion of ground surveys for potential American badger burrows no more than 30 days prior to the start of construction. If burrows are observed, pre-construction surveys should be completed by a qualified biologist before site development occurs to



determine if the site contains active dens and if avoidance of these dens can occur. A pre-construction survey is not required if above-ground pots are utilized for cultivation and no ground disturbance will occur. In the event that rare, threatened, or special-status species are found onsite, the biologist shall notify the Planning Director in consultation with CDFW. The Planning Director shall determine in consultation with CDFW, if modifications to the project design are possible to avoid removal of occupied habitat while still achieving project objectives or if avoidance is not feasible. If avoidance is not feasible, a qualified biologist shall monitor the site and no construction activities shall commence until the nest and/or den is no longer active and has been cleared.

13. The applicant shall install at least two (2) exit ramps to the proposed pond to prevent wildlife entrapment. Exit ramps shall meet the following requirements: installed at no greater than 2:1 slope, securely fixed at the upslope end, and be made of solid material (e.g. wood).
14. During construction activities, the applicant shall adhere to the following best management practices recommended within the Biological Reconnaissance Survey Report prepared by Mason London on April 7th, 2021:
  - a. The installation of waddles, silt fences, and berms to combat and prevent erosion and to eliminate contaminates and sediment movement towards Bear Trap Creek, Honeydew Creek, and other watercourses, if major ground disturbance is proposed.
  - b. Construction equipment fueling and greasing should occur within one location at the project site, at least 200 feet away from any river, watercourse, or wetland habitat. This location should be clear of brush, flat, and contain fuel mats in case of accidental spillage.
  - c. Every morning, and throughout the day during construction, the equipment should be inspected for hydraulic fluid, oil, or fuel leaks. If leaks are detected, they should be repaired immediately and before any further work is completed in order to prevent excess spillage entering the watercourse.
15. During the time of the project's site development, the applicant shall follow procedures for eradicating any invasive species identified in the project's associated Invasive Species Control Plan.
16. Water cannot be brought to the site for employees or for irrigation. This condition modifies the Operations Plan. Employee drinking water and handwashing water will be sourced by rainwater catchment which has been filtered to the satisfaction of the Department of Health and Human Services.
17. Per the comments received from the Department of Public Works, conditions of approval for the roadway include:

- a. 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 or close the gate. In addition, no materials shall be stored or placed on 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.
  - b. Driveways that will serve as access for the proposed project and connect to a County-maintained road shall be improved to current standards for a commercial driveway. The driveway shall be paved for a minimum width of 18 feet and a length of 50 feet (or to break in slope) where it intersects the County road. 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.
  - c. All driveways and private road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility). 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.
18. 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.
19. The applicant shall execute and file with the Planning Division 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.
20. If cultural resources are encountered during construction activities, the contractor onsite 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.

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

1. The applicant shall prepare an additional 24-hour Noise Study recording noise levels from at least three property lines while cannabis activities are not in operation and during mild weather conditions. Project noise shall not go over three decibels above these ambient noise levels for the life of the project.
2. All lighting utilized in the mixed-light cultivation operation shall be consistent with state requirements for Tier 1 mixed-light cultivation, and shall not exceed 6 watts per square foot of area.
3. The applicant shall provide an invoice or equivalent documentation to the Planning Department to confirm the continual use of portable toilets used to serve the needs of cultivation staff. In the event that a cannabis support building with restroom facilities is permitted and constructed, and the restroom facilities are found to meet the needs of the project, the project may choose not to utilize portable toilets for onsite wastewater treatment and shall submit proof of a septic permit to the Planning Division. Processing activities cannot begin until a septic system is permitted onsite by the Department of Health and Human Services, Environmental Health Division.
4. The applicant shall submit the final LSA application response from CDFW when available, and in the event that a Streambed Alteration Agreement is required the applicant shall adhere to the work outlined in the final Agreement.
5. The applicant shall submit to the Planning Department the final Site Management Plan, and shall adhere to the measures and recommendations within the final SMP.
6. Permittee is advised that County-maintained roads may generate dust and other impacts to farms. Permittee shall locate their farm in areas not subject to these impacts. Permittee shall be responsible for protecting their farm against these impacts. Permittee shall hold the County harmless from these impacts. Permittee is advised that a paved road may not always remain paved and Permittee shall locate their farm appropriately. Permittee is advised that the amount of traffic on a road will vary over time which may increase or decrease the impacts.
7. Lighting shall be implemented as described in the Cultivation and Operations Plan to conform to International Dark-Sky Association standards. All artificial lighting shall be fully contained within structures such that no light escapes via blackout tarp shielding. 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; see: <https://www.darksky.org/our-work/lighting/lighting-for-citizens/lighting-basics/>. Standards include but are not limited to the following, 1) light shall be shielded and downward facing, 2) shall 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.

8. 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.7., within ten (10) working days of receiving written notification that a complaint has been filed, the permittee shall submit written verification that the lights' shielding and alignment, and noise levels have been repaired, inspected, and corrected as necessary.
9. Prohibition on use of synthetic netting for erosion control. To minimize the risk of wildlife entrapment, Permittee shall not use any 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.
10. All cultivation material outside of the project areas designated within the Biological Reconnaissance Survey Report prepared by Mason London on April 7th, 2021, as well as all trash within and outside of those project areas, shall be removed from the area in order to avoid disturbance to surrounding wildlife, habitats, and the environment.
11. The permittee shall comply with the protocols addressed in the CDFW Bullfrog Management Plan. Reporting requirements shall be submitted to the Planning Department and CDFW at 619 Second Street, Eureka, CA 95501, no later than December 31st of each year.
12. All refuse shall be contained in wildlife proof storage containers at all times, and disposed of at an authorized waste management facility.
13. Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and shall be allowed to leave the work site unharmed.
14. The use of anticoagulant rodenticide is prohibited.
15. 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.

16. 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. Changes shall require modification of this permit except where consistent with Humboldt County Code Section 312-11.1, Minor Deviation from the 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.
17. Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws and regulations as set forth in the CCLUO and MAUCRSA, as applicable to the permit type.
18. 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.
19. Compliance with all statutes, regulations, and requirements of the California State Water Resources Control Board and the Division of Water Rights, as applicable.
20. 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 55.4.6.4.4 (f).
21. Maintain enrollment in Tier 2 certification with State Water Resource Control Board (SWRCB) Order No. WQ 2019-0001-DWQ, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
22. 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).
23. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
24. 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.

25. Pay all applicable application fees, review for conformance with conditions fees, and annual inspection fees.
26. The master logbooks maintained by the permittee to track production and sales shall be available for inspection by the County.
27. 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

28. Pursuant to Business and Professions Code section 26051.5(a)(8), the 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.”
29. 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, Cal/OSHA, OSHA, the California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).
30. 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.
31. 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:
    - (1) Emergency action response planning as necessary;
    - (2) Employee accident reporting and investigation policies;
    - (3) Fire prevention;
    - (4) Hazard communication policies, including maintenance of material safety data sheets (MSDS);

- (5) Materials handling policies;
- (6) Job hazard analyses; and
- (7) 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.

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

- a. Processing practices
- b. Location where processing will occur
- c. Number of employees, if any
- d. Employee Safety Practices
- e. Toilet and handwashing facilities
- f. Plumbing and/or septic system and whether or not the system is capable of handling increased usage
- g. Drinking water for employees
- h. Plan to minimize impact from increased road use resulting from processing
- i. Onsite housing, if any

33. Term of Commercial Cannabis Activity Special Permit. Any Commercial Cannabis Cultivation SP issued pursuant to the CCLUO 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.

34. 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 reinspection to determine whether or not the permit holder has cured all issues of noncompliance. Failure to request reinspection 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 55.4.5.8.

35. 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.
36. 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.
37. 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 CCLUO 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.
38. 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.