

SUPPLEMENTAL INFORMATION #1

For Planning Commission Agenda of:
August 19, 2021

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|-------------------------------------|------------------------|----------------|
| <input type="checkbox"/> | Consent Agenda Item | |
| <input type="checkbox"/> | Continued Hearing Item | No. <u>F-6</u> |
| <input checked="" type="checkbox"/> | Public Hearing Item | |
| <input type="checkbox"/> | Department Report | |
| <input type="checkbox"/> | Old Business | |

Re: High Country Farms, Inc. Conditional Use Permit

Record Number PLN-12552-CUP

Assessor Parcel Number 223-261-005

Garberville, CA

Attached for the Planning Commission's record and review is (are) the following supplementary information items:

1. Attachment 1 - Revised Recommended Conditions of Approval to clarify the limitation of more than 10% of the total cultivation area for the combined propagation areas (outdoor and within a proposed structure).

ATTACHMENT 1

REVISED 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 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 60 days of the effective date of the permit or upon filing of the Compliance Agreement (where applicable), whichever occurs first. Payment will 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 California Environmental Quality Act (CEQA) Guidelines. **Within 3 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 Department will file the NOD and will charge this cost to the project.
5. **The applicant shall submit a revised site plan within 60 days of project approval illustrating no more than 1,347 square feet of combined propagation and nursery area (10% of the cultivation area), either outdoors or within the proposed structure.**
6. Within 60 days of the effective date of permit approval, the applicant will execute a Compliance Agreement with the Humboldt County Planning and Building Department detailing all necessary permits and infrastructure improvements described under Conditions of Approval #7~~6~~ through #17. The agreement will 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.
7. The applicant will 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 will 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.

8. The approved building plans will 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 will satisfy this requirement.
9. The applicant will prepare a Site Management Plan (SMP) and implement all corrective actions detailed in the SMP developed for the project. The SMP is to be prepared pursuant to the applicant's Tier 2 Low Risk status under enrollment with the State Water Resource Control Board (SWRCB) Cannabis Cultivation Policy, in congruence with Order WQ 2019-0001-DWQ General Waste Discharge Requirements for Dischargers of Waste Associated with Cannabis Cultivation Activities. A letter or similar communication from the North Coast Regional Water Quality Control Board verifying that all their requirements have been met will satisfy this condition.
10. The applicant shall implement recommendations in the Timber Conversion Report dated 2019 prepared by Stephen Hohman (Registered Professional Forester #2652) of Mad River Properties, Inc. A monitoring report prepared by a licensed professional forester shall be submitted annually to the Planning and Building Department. The applicant shall submit the Timber Conversion Report to the California Department of Forestry and Fire Protection (Cal Fire) for approval to ensure compliance with the Forest Practices Act.
11. The applicant shall install water monitoring device(s) on each source—pond, storage tanks, and domestic diversion, as applicable—to monitor water used for cannabis irrigation separate from domestic use.
12. The applicant shall adhere to all terms and conditions of the issued Right to Use and Divert Water by the SWRCB (Registration No. D032823 and Certificate No. D1084) for use of a water diversion from an unnamed ephemeral stream tributary to Dean Creek, then the South Fork Eel River.
13. All mixed-light cultivation shall comply with International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1 and be designed to regulate light spillage onto neighboring properties resulting from backlight, up light, or glare. International Dark Sky Association standards exceed the requirements of Scenic Resources Standard SR-S4, Light and Glare, that lighting be fully shielded, and designed and installed to minimize offsite lighting and direct light within the property boundaries. Within 30 days of the effective date of this permit, the applicant shall schedule a site inspection with the Humboldt County Planning Department to demonstrate the structures and greenhouses can comply with this standard.
14. The applicant shall ensure all existing or proposed non-County-maintained access roads that will serve as access for the proposed project and connect to a County-maintained road be improved to current standards for a commercial driveway. An encroachment permit shall be issued by the Humboldt County Department of Public Works prior to commencement of any work in the County maintained right-of-way. If the County road has a paved surface at the location of the access road, the access road shall be paved or rocked (match current surface) for a minimum width of 20 feet and length of 50 feet where it intersects the County road. 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. Written correspondence from a Public Works Land Use Division employee to the Humboldt County Planning Department confirming completion of this requirement shall satisfy this condition.

15. The applicant shall abide by recommendations of the Streambed Alteration Agreement (No. 1600-2017-0491-R1) with California Department of Fish and Wildlife (CDFW), which include but are not limited to installation of exit ramps to prevent wildlife entrapment within the pond (item #2.29) and the development of a bullfrog management plan (item #2.28). In addition, per the CDFW letter dated July 15, 2019, if the project proposes ground-disturbing activities, include protocol-level surveys, conducted by a qualified botanist, for any California Rare Plant Ranked Species that may be present within 200 feet of the proposed project site. Surveys should be conducted in order to identify and establish buffers for any sensitive natural communities, such as wetlands, springs, seeps, and riparian areas, or plants with a State Rare Plant Rank of 1 or 2.
16. The applicant shall cause to be recorded an "ACKNOWLEDGMENT OF NO AVAILABLE EMERGENCY RESPONSE AND FIRE SUPPRESSION SERVICES" for the parcel(s) on a form provided by the Humboldt County Planning Division. Document review fees as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors will be required.
17. 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.
18. 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 Humboldt County Code and available at the Planning Division.

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

1. The combination of background, generator, and greenhouse fan or other operational equipment created noise 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 Commercial Medical Marijuana Land Use Ordinance (CMMLUO) Section 55.4.11(o) requirements. The combined noise levels measured at 100 feet or the edge of habitat, whichever is closer, will be at or below 50 decibels. Conformance will be evaluated using current auditory disturbance guidance prepared by the United States Fish and Wildlife Service, and further consultation where necessary. A building permit shall be obtained, should any structures be necessary for noise attenuation.
2. 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 within 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.
3. Ensure all generators be located on stable surfaces with a minimum 200-foot buffer from all waterways measured horizontally from the outer edge of the riparian drip zone.

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 of at an authorized waste management facility.
6. Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and 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. 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, the permittee shall abate or cure violations at the earliest feasible date, but no more than 2 years from the date of issuance of a provisional clearance or permit. The permittee shall provide plans for curing such violations to the Planning and Building Department within 1 year of issuance of the provisional clearance or permit. If good faith effort toward compliance can be shown within the 2 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. 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. Compliance with all statutes, regulations, and requirements of the SWRCB 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. 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. Maintain enrollment in Tier 1 or 2 certification with North Coast Regional Water Quality Control Board Order No. R1-2019-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
16. Comply with the terms of any applicable Lake and Stream Alteration (1600 or 1602) Permit obtained from CDFW.
17. Comply with the terms of a less-than-3-acre conversion exemption or timberland conversion permit, approved by Cal Fire, if applicable.
18. 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. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
20. Pay all applicable application, review for conformance with conditions and annual inspection fees.
21. Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, including the County of Humboldt's CUPA program, and in such a way that no spillage occurs.
22. The master log books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
23. 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, 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:
 - (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;
 - (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. Onsite 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:
- 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
29. Term of Commercial Cannabis Activity Special Permit. Any Commercial Cannabis Cultivation Permit issued pursuant to the CMMLUO shall expire 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 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 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 55.4.13.

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 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 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 1 year after all appeal periods have lapsed (see "Effective Date"), except where the

Compliance Agreement per Condition of Approval #5 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 the Ongoing Requirements/Development Restrictions, above.

3. 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 Section 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.