



**COUNTY OF HUMBOLDT**  
**PLANNING AND BUILDING DEPARTMENT**  
**CURRENT PLANNING DIVISION**

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Hearing Date: May 5, 2022

To: Humboldt County Planning Commission

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

Subject: **MDRV Realty Holdings, LLC, Special Permits**  
Record Number PLN-11214-SP  
Assessor's Parcel Number (APN) 208-241-006  
Dinsmore/Mad River Area

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Please contact Megan Acevedo, Planner, at 707-441-2634 or by email at [macevedo@co.humboldt.ca.us](mailto:macevedo@co.humboldt.ca.us), if you have any questions about the scheduled public hearing item.

**AGENDA ITEM TRANSMITTAL**

<b>Hearing Date</b> May 5, 2022	<b>Subject</b> Special Permits	<b>Contact</b> Megan Acevedo
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**Project Description:** MDRV Realty Holdings, LLC seeks a Special Permit for 2,000 square feet (sf) existing outdoor and 4,850 sf existing mixed-light cannabis cultivation with a 720 sf ancillary propagation area. Water for irrigation is provided by a stream diversion (POD 1 under Water Right Certificate H100730), and a Special Permit is being requested to approve the continued use and maintenance of the stream diversion. There is a total of 110,000 gallons of water storage on-site in fifteen (15) hard sided tanks, and three (3) 20,000 gallon water bladders (two bladders are temporary water storage for the adjacent parcel 208-241-007). Estimated annual water usage is 50,000 gallons. Drying and curing will occur on-site and trimming will occur off-site at a licensed processing facility. Up to two (2) employees are used for on-site operations. Power is sourced from an on-site generator, and future solar is proposed. An additional Special Permit is being requested to reduce the 600-foot setback to public lands (SRNF), to approximately 320 feet.

**Project Location:** The project is located in Humboldt County, in the Dinsmore/Mad River area, on the east side of Ridge Road, approximately 2.5 miles north from the intersection of County Line Creek Road and Ridge Road, on the property known to be 2475 Eight Mile Ridge Road, Mad River, CA.

**Present Plan Land Use Designations:** Residential Agriculture (RA); 2017 General Plan; Density: 20-160 acres per unit; Slope Stability: High Instability (3)

**Present Zoning:** Forestry Recreation (FR) Minimum Building Site 40 acres [B-5(40)]

**Record Number:** PLN-11214-SP

**Assessor's Parcel Number:** 208-241-006

**Applicant**

MDRV Realty Holdings, LLC  
728 Fourth St.  
Eureka, CA 95501

**Owner**

DNA Realty Holdings, LLC  
175 West 60<sup>th</sup> St.  
New York, NY 10023

**Agents**

Green Road Consulting  
1650 Central Ave., Ste. C  
McKinleyville, CA 95519

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

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

**Major Issues:** None

**MDRV Realty Holdings, LLC**  
Record Number: PLN-11214-SP  
Assessor's Parcel Number: 208-241-006

**Recommended Commission Action**

1. Describe the application as part of a public hearing.
2. Request staff to present the application and staff report;
3. Open the public hearing and receive testimony;
4. Close the public hearing and adopt the Resolutions to take the following actions:

*1) Find that the Commission has considered the Addendum to the adopted Mitigative Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) as described by Section §15164 of the State CEQA Guidelines, 2) make all of the required findings for approval of the Special Permits and 3) approve the MDRV Realty Holdings, LLC Special Permits as recommended by staff subject to the recommended conditions.*

**Executive Summary:** MDRV Realty Holdings, LLC seeks a Special Permit for 2,000 square feet (sf) existing outdoor and 4,850 sf existing mixed-light cannabis cultivation with a 720 sf ancillary propagation area. Water for irrigation is provided by a stream diversion on-site. A Special Permit is being requested for the continued use and maintenance of the stream diversion. There is a total of 110,000 gallons of water storage on-site in fifteen (15) hard sided tanks, and three (3) 20,000 gallon water bladders (two bladders are temporary water storage for the adjacent parcel 208-241-007). Estimated annual water usage is 50,000 gallons. Drying and curing will occur on-site and trimming will occur off-site at a licensed processing facility. Up to two (2) employees are used for on-site operations. Power is sourced from an on-site generator, and future solar is proposed. An additional Special Permit is being requested to reduce the 600-foot setback to public lands (SRNF).

The applicant utilizes portable toilets to serve on-site wastewater treatment system needs. The project was referred to the Department of Environmental Health (DEH) on April 25, 2019, and comments were received by the agency on April 30, 2019, recommending conditional approval for the project. The applicant shall provide receipts or other equivalent documentation annually to the Planning Division for proof of portable toilet service until the applicant has obtained a permitted septic system on-site with DEH (**Ongoing Condition B.1**).

The project was referred to the Building Division on April 25, 2019, and a site inspection was conducted on June 13, 2019. Comments from the Building Division included to submit a revised Site Plan and obtain the necessary building permits for all structures and grading associated to cannabis activities on-site. A revised Site Plan has been submitted. There are a total of two (2) mixed-light greenhouses, one (1) proposed ancillary nursery greenhouse, and one (1) 2,000 sf full-sun outdoor area. There are two (2) existing storage sheds, and one (1) generator shed. Drying and curing will occur on-site and processing will occur off-site at a licensed processing facility. The applicant shall keep documentation of proof of third-party processing service, to be furnished during an annual inspection (**Ongoing Condition B.2**). The applicant is conditioned to obtain building permits for all existing and proposed structures with a nexus to cannabis, including but not limited to: two (2) mixed-light greenhouses, one (1) greenhouse for ancillary propagation, two (2) storage sheds, one (1) generator shed, and grading activities association with the cultivation area (**Condition A.7 & A.8**).

**Energy**

The applicant currently utilizes one (1) generator on-site, which is housed within a generator shed. The applicant plans to transition to on-site solar power. The applicant shall permit the proposed solar system with the Building Division (**Condition A.10**).

**Setbacks**

The project is located within 600 feet of public lands, the Six Rivers National Forest (SRNF). The nearest proposed cultivation area is located approximately 320 feet to the SRNF boundary, and the applicant is

requesting a Special Permit to allow a setback reduction to public lands. The project was referred to the SRNF on April 25, 2019, and no comments were received. The project is consistent with recreational use on public lands as the proposed project is not located near developed campgrounds, trails, or other related public facilities.

The adjacent public land is subject to the Land and Resource Management Plan - Six Rivers National Forest 1995 (L&RMP). The project is consistent with the L&RMP because the cultivation activities will minimize impacts to biological resources and wildlife by adhering to International Dark Sky Standard, reducing light and noise impacts, and adding an on-site solar system.

### **Water Resources**

The project will source water from an on-site stream diversion, POD1 under Water Right Certificate H100251 & H100730. The project was referred to the State Water Board Division of Water Rights on April 25, 2019, and comments were received on April 29, 2019, recommending approval for the project under Water Right Certificate H100251. Water Right Certificate H100251, dated 8/27/2018, lists the subject parcel but states that diversionary water is to be used for 0 acres of irrigation on APN: 208-241-006. An updated Water Right Certificate H100730, dated 11/25/2019, (updating the Right Holder as the current property owner, and increasing the overall water allowed to be diverted) includes POD1 on APN: 208-241-006, but only shows adjacent parcel APN: 208-241-007 for purpose and use. The adjacent parcel (application PLN-11212-CUP) will only utilize POD 2 in the Water Right Certificate, and all water sources are separate for the adjacent projects. The applicant shall contact the State Water Board Division of Water Rights to update the Water Right Certificate H100730 to include for the purpose and use of irrigation on APN: 208-241-006 for 0.17 acres, and shall submit the updated Water Right Certificate to the Planning Division (**Condition A.9**). Water Right Certificate H100730 allows for the annual diversion of up to 0.94 acre-feet (306,300 gallons), which is a sufficient amount of water for the purpose and use on APN's: 208-241-006 & 208-241-007 (which are estimated to use a total of 200,000 gallons of water annually). The applicant shall adhere to the terms and restrictions in the Water Right Certificate H100730, or subsequent Water Right, such as forbearance and diversion rate requirements (**Ongoing Condition B.3**).

Estimated annual water needed for irrigation on-site is approximately 50,000 gallons. There is a total of 110,000 gallons of water storage on-site in fifteen (15) hard sided tanks, and three (3) 20,000 gallon water bladders. Two (2) 20,000 gallon bladders in the southern portion of the property are temporary water storage designated for the adjacent parcel to the south 208-241-007, and one (1) 2,500 gallon tank is proposed for fire suppression. The applicant shall decommission all water bladders on-site within two years from the date of approval (**Condition A.5**). The final amount of water storage on-site will be 50,000 gallons, after the water bladders are removed.

The site was historically enrolled in the North Coast Regional Water Quality Control Board's Order No. R1-2015-0023, under WDID: 1B161267CHUM. The applicant has also enrolled in the State Water Resources Control Board's (SWRCB) General Order WQ 2019-0001-DWQ, as a Tier 2 Low Risk site. A Notice of Applicability letter dated December 26, 2019, was submitted as proof of enrollment under WDID: 1\_12CC417973. The applicant has had a Site Management Plan (SMP) prepared by Mother Earth Engineering, to show mitigation measures required for the project to meet Water Board standards, received December 8, 2021. The SMP was prepared for both adjacent parcels APN's: 208-241-006 & 208-241-007, and lists Best Practicable Treatment or Controls (BPTC) for the project. The applicant shall adhere to the recommendations and BPTC's listed in the SMP (**Ongoing Condition B.4**).

There are four (4) culverts on-site that need replacing, a stream point of diversion located on-site for irrigation (POD1 under Water Right Certificate H100730), and a spring point of diversion located on the adjacent parcel to the north for domestic uses. The applicant has obtained a Streambed Alteration Agreement (SAA No. EPIMS-HUM-15838-R1) with the California Department of Fish & Wildlife (CDFW) for all in-stream work associated with the project. The applicant is conditioned to abide by and adhere to the terms, project description and work outlined within the final signed SAA No. EPIMS-HUM-15838-R1 with CDFW (**Ongoing Condition B.5**).

### **Timber Conversion**

The site contains timber conversion, and the applicant had a Timber Conversion Report (TCR) prepared by Blair Forestry Consulting, dated January 13, 2018. The TCR was combined for the two (2) adjacent parcels owned and operated by the applicant, and estimates that a total of 1.15 acres of timber conversion occurred in total on both parcels. The TCR recommends that the applicant address road surface points on roads leading to conversion sites and a watercourse crossings at SC#2 (**Condition A.11**). The project and TCR was referred to CalFire on April 25, 2019, and the agency replied stating that they had no comments on the proposed project.

### **Fire Hazard**

The project is located in an area designated to have high fire hazard severity, and is within the Ruth Lake Community Services District (RLCSD) for fire response. The project was referred to the RLCSD on April 25, 2019, and no comments were received from the agency. There is ample room on-site for a firetruck turnaround, and a 2,500 gallon water tank is proposed for fire suppression.

### **Biological Resources**

The project is located approximately 0.87 miles to the nearest known Northern Spotted Owl (NSO) activity center, and no rare or endangered species are shown on or near the subject parcel in the California Natural Diversity Database (CNDDDB). The applicant has enrolled in the SWRCB's Order No. 2019-001-DWQ for waiver of waste discharge, all cultivation areas are located outside of any streamside management areas on-site, and the applicant plans to add a future solar system on-site. As the site is pre-existing, and there is no new development proposed, the applicant was not required to provide a Biological Report for the project. The applicant is required to comply with International Dark Sky Standards, and shall not allow any light to escape from mixed-light or nursery greenhouses from dusk to dawn, and shall ensure that all noise levels do not go above 50 decibels at any tree line or 100 feet when noise generating equipment are in use (**Ongoing Conditions B.6 & B.7**).

### **Tribal Cultural Resource Coordination**

The project is located in the Bear River Band Aboriginal Ancestral Territories. The project was referred to the Northwest Information Center (NWIC), and the Bear River Band Tribe on April 25, 2019. The NWIC replied on May 6, 2019, recommending that the local Native American tribes be contacted regarding traditional, cultural, and religious heritage values. The Bear River Band THPO replied on July 12, 2019 requesting a Cultural Resource Survey (CRS) for the project. The applicant has obtained a CRS for the project site, which was prepared by Dimitra Zalarvis-Chase, M.A., RPA, with DZC Archaeology & Cultural Resource Management, dated December 2019. The CRS states that the archaeological survey was negative for cultural resources, and that there will be no adverse effects or changes to any historic resources on the project site. The applicant shall adhere to Inadvertent Discovery Protocols, as requested by the Bear River Band THPO on March 24, 2021 (**Informational Note 3**).

### **Access**

Access to the site is from Eight Mile Ridge Road, from County Line Creek Road, from State Hwy 36. Both Eight Mile Ridge Road and County Line Creek Road are non-county maintained roads off of Hwy 36. The applicant has submitted a Road Evaluation Report (RER) form for the access route from Hwy 36, (calling Eight Mile Ridge Road as Ridge Road, and County Line Creek Road as Salyer Mad River Road, named as such on Google Earth) which includes photos and a route map showing photo locations taken at pinch point areas on the road. The RER designates the private access roads as being developed to the equivalent of a category 4 standard, and states that the roads are adequate for the proposed use without further review from the applicant. All approved projects off of the access road will be required to have a Road Maintenance Association developed and will be required to maintain the road through the County's post-approval monitoring team. The project was referred to the Department of Public Works on April 25, 2019, and comments were received on April 29, 2019. Comments from Public Works stated that the access route is from a series of non-county maintained roads that connect directly to State Hwy 36, and recommended that the project be referred to CalTrans. The project was referred to CalTrans on July 18, 2019, and no comments were received by the agency.

## **Public Comment**

A public comment from an anonymous neighbor was submitted in the form of a phone call and also in a subsequent email. Another neighbor attended the previous hearing date on March 3, 2022, and stated their same concerns regarding the project. The public commenters addressed concerns about the constant use and road damage of up to one mile of Eight Mile Ridge Road used by employees between the two adjacent parcels (APN's: 208-241-007 & 208-241-006 owned and operated by the applicant) which runs through three (3) neighboring parcels, safety concerns regarding unsafe traffic on the access roads, employee parking on Eight Mile Ridge Road blocking through access, theft issues with applicant's employees, concerns about the reported annual water usage being underestimated, concerns about the use of a spring located on Six Rivers National Forest for cannabis irrigation, safety concerns regarding fire hazard with generator usage, gates being left unlocked, and light and noise pollution complaints.

A response to the public comment was received by the applicant on March 21, 2022, addressing the concerns stated by the neighbors. The applicant states that he purchased the properties last year, and 2021 was the first cultivation season run by the current applicant. The applicant states that he never met any neighbors at the site, and that the easement road that connects the two properties does not pass any residences that he is aware of. Nor was the applicant aware of any theft allegations, or any presence of light or noise pollution, which may have occurred during the previous applicant's ownership of the project. The applicant has also stated that his employees share the work through both projects, but in the event that one project is sold, they would not utilize more than two (2) employees per project, and would not result in more than 1 vehicle trip (but in actuality 2 vehicle trips, one to and one from the site) per day per parcel. The applicant has also stated that they will discontinue the use of Eight Mile Ridge Road to access the two sites and will instead utilize a skid trail that connects the two adjacent parcels. However, as there is no evidence that this skid road is developed to any suitable extent this is not recommended for use by County staff. The Road Evaluation Report supports the use of the primary road to continue to be utilized. There are three parking spaces shown on the Site Plan, and the applicant shall utilize the on-site parking area and shall not block the access route through Eight Mile Ridge Road (**Ongoing Condition B.9**).

The applicant does have a Streambed Alteration Agreement (SAA No. EPIMS-HUM-15838-R1) with CDFW allowing the use of the spring located on the Six Rivers National Forest APN: 208-241-005, to be used for domestic purposes only on APN's: 208-241-006 & 208-241-007. There is also an appropriated Water Right (D030916) which expired on July 1, 2014, and the applicant has submitted a request to renew the Water Right for the use of domestic purposes on APN's: 208-241-006 & 208-241-007. The applicant shall be informed that the spring diversion on Six Rivers National Forest is not allowed for the use of cannabis irrigation (**Informational Note 4**).

## **Consistency with Humboldt County Board of Supervisors Resolution No. 18-43**

Planning staff determined approval of this project is consistent with Humboldt County Board of Supervisors Resolution No. 18-43, which established a limit on the number of cultivation permits and acres which may be approved in each of the County's Planning Watersheds. The project site is located in the Mad River Planning Watershed, which under Resolution 18-43 is limited to 334 permits and 115 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 65 cultivation permits and the total approved acres would be 24.73 acres of cultivation.

Environmental review for this project was conducted and based on the results of that analysis, staff finds that all aspects of the project have been considered in a previously adopted Mitigated Negative Declaration that was adopted for the Commercial Medical Marijuana Land Use Ordinance and has prepared an addendum to this document for consideration by the Planning Commission (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 Special Permits (SP).

**Alternatives:** The Planning Commission could elect not to approve the project, or to require the applicant to submit further evidence, or 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 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 that case, the Commission should continue the item to a future date at least two months later to give staff the time to complete further environmental review.

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

**Resolution Number 22-057**

**Record Number PLN-11214-SP**

**Assessor's Parcel Number: 208-241-006**

**Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approving MDRV Realty Holdings, LLC Special Permits.**

**WHEREAS, MDRV Realty Holdings, LLC**, submitted an application and evidence in support of approving a Special Permit for the operation of an existing 4,850 square feet (sf) of mixed-light, and 2,000 sf of outdoor cannabis cultivation operation with appurtenant propagation and drying activities; and a Special Permit for the continued use of a stream diversion; and a Special Permit to reduce the 600-foot setback from public lands; and

**WHEREAS**, the County as lead agency, prepared an Addendum to the Mitigated Negative Declaration (MND) prepared for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) adopted by the Humboldt County Board of Supervisors on January 26, 2016. The proposed project does not present substantial changes that would require major revisions to the Mitigated Negative Declaration. No new information of substantial importance that was not known and could not be known at the time was presented as described by §15162(c) of CEQA Guidelines; and

**WHEREAS**, the Humboldt County Planning Commission held a duly-noticed public hearing on **May 5, 2022**, and reviewed, considered, and discussed the application for the Special Permits and reviewed and considered all evidence and testimony presented at the hearing.

**Now, THEREFORE BE IT RESOLVED**, that the Planning Commission makes all the following findings:

- 1. FINDING:**                    **Project Description:** The application is a Special Permit for 2,000 square feet (sf) existing outdoor and 4,850 sf existing mixed-light cultivation with a 720 sf ancillary propagation area. Water for irrigation is provided by a stream diversion (POD 1 under Water Right Certificate H100730), and a Special Permit is being requested to approve the continued use and maintenance of the stream diversion. There is a total of 50,000 gallons of water storage designated for irrigation needs, and estimated annual water usage is 50,000 gallons. Drying and curing will occur on-site and trimming will occur off-site at a licensed processing facility. Up to two employees are used for on-site operations. Power is sourced from an on-site generator, and future solar is proposed. An additional Special Permit is being requested to reduce the 600-foot setback to public lands (SRNF), to approximately 320 feet.

**EVIDENCE:**                a) Project File: PLN-11214-SP

- 2. FINDING:**                    **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Planning Commission has considered the Addendum to and the Mitigated Negative Declaration (MND) prepared for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) adopted by the Humboldt County Board of Supervisors on January 26, 2016.

**EVIDENCE:**                a) Addendum Prepared for the proposed project.  
b) The proposed project does not present substantial changes that would require major revisions to the previous MND. No new information of



substantial importance that was not known and could not be known at the time was presented as described by §15162(c) of CEQA Guidelines.

- c) Water Right Certificate H100730, allowing the right to divert and use water for irrigation from an on-site stream diversion (POD1).
- d) A Notice of Applicability letter for proof of enrollment in the State Water Resources Control Board's General Order WQ 2019-0001-DWQ as a Tier 2 Low Risk site, under WDID: 1\_12CC417973.
- e) A Site Management Plan was prepared by Mother Earth Engineering, to address project compliance with the State Water Board Order WQ-2019-0001-DWQ.
- f) A Timber Conversion Report prepared by Blair Forestry Consulting, which evaluates a total of 1.15 acres of pre-2016 timber conversion on two adjacent parcels APN's: 208-241-006 & 208-241-007.
- g) A Streambed Alteration Agreement (SAA No. EPIMS-HUM-15838-R1) has been obtained with CDFW for all instream work needed on-site.
- h) The project is within the Bear River Band tribes' ancestral aboriginal territories. The project was referred to the Bear River Band THPO on April 25, 2019. The applicant has obtained a Cultural Resource Survey (CRS) for the project site, which was prepared by Dimitra Zalarvis-Chase, M.A., RPA, with DZC Archaeology & Cultural Resource Management, dated December 2019. The CRS states that the archaeological survey was negative for cultural resources, and that there will be no adverse effects or changes to any historic resources on the project site. The project is conditioned to adhere to inadvertent discovery protocols.
- i) A Road Evaluation Report (RER) was prepared for the access route to the project site from Hwy 36, which includes photos and a route map showing photo locations taken at pinch point areas on the road. The RER designates the access roads County Line Creek Road and Salyer Mad River Road (shown as Eight Mile Ridge Road on the County GIS) as being developed to the equivalent of a category 4 standard, and it has been determined that the access route meets the functional capacity for the project's needs.

#### **FINDINGS FOR SPECIAL PERMITS**

**3. FINDING** The proposed development is in conformance with the County General Plan, Open Space Plan, and the Open Space Action Program.

- EVIDENCE**
- a) General agriculture is a use type permitted in the Residential Agriculture (RA) land use designation. The existing cannabis cultivation, an agricultural product, is within land planned and zoned for agricultural purposes. The project is consistent with, and complimentary to, the Open Space Plan and its Open Space Action Program.
  - b) The applicant is applying for a Special Permit to allow the continued use of an on-site stream diversion (POD1) for agricultural purposes under Water Right Certificate H100730.

**4. FINDING** The proposed development is consistent with the purposes of the existing FR zone in which the site is located.

- EVIDENCE**
- a) The Forest Recreation or FR Zone is intended to be applied to areas of the County in which general agriculture is a desirable use.
  - b) All general agricultural uses are principally permitted in the FR zone.
  - c) Humboldt County Code section 314-55.4.8.2.2 allows for cultivation of up to 10,000 sq. ft. of outdoor or mixed-light commercial cannabis cultivation for some or all of the cultivation area in existence prior to January 1, 2016, in FR zones with a Special Permit. The application for 4,850 sq. ft. of mixed-light and 2,000 sq. ft. of outdoor cannabis cultivation on a 40 acre parcel is consistent with this and with the cultivation area verification prepared by the County.

**5. FINDING** The proposed development is consistent with the requirements of the CMMLUO Provisions of the Zoning Ordinance.

- EVIDENCE**
- a) The CMMLUO allows existing cannabis cultivation to be permitted in areas zoned FR (HCC 314-55.4.8.2.2).
  - b) The subject parcel has been determined to be one legal parcel (lot 131) as shown on Record of Survey in Book 26 of Surveys page 135.
  - c) The project will obtain water from a permitted diversionary water source for pre-existing cannabis cultivation under Water Right Certificate H100730.
  - d) A Road Evaluation Report (RER) was prepared for the access route to the project site from Hwy 36, which includes photos and a route map showing photo locations taken at pinch point areas on the road. The RER designates the access roads County Line Creek Road and Salyer Mad River Road (shown as Eight Mile Ridge Road on the County GIS) as being developed to the equivalent of a category 4 standard, and it has been determined that the access route meets the functional capacity for the project's needs.
  - e) A Timber Conversion Report prepared by Blair Forestry Consulting, which evaluates a total of 1.15 acres of pre-2016 timber conversion on two adjacent parcels APN's: 208-241-006 & 208-241-007.
  - f) A Notice of Applicability letter for proof of enrollment in the State Water Resources Control Board's General Order WQ 2019-0001-DWQ as a Tier 2 Low Risk site, under WDID: 1\_12CC417973. A Site Management Plan was prepared by Mother Earth Engineering, to address project compliance with the State Water Board Order WQ-2019-0001-DWQ.
  - g) A Streambed Alteration Agreement (SAA No. EPIMS-HUM-15838-R1) has been obtained with CDFW for all instream work needed on-site.
  - h) The location of the cultivation complies with all setbacks required in Section 314-55.4.11.d. It is more than 30 feet from any property line, and more than 600 feet from any school, church, or Tribal Cultural Resource.
  - i) The project is located within 600 feet of public lands, the Six Rivers National Forest (SRNF). The nearest proposed cultivation area is located approximately 320 feet to the SRNF boundary, and the applicant is requesting a Special Permit to allow a setback reduction to public lands. The project was referred to the SRNF on April 25, 2019, and no comments were received. The project is consistent with recreational use on public lands as the proposed project is not located near developed campgrounds, trails, or other related public facilities.

The adjacent public land is subject to the Land and Resource Management Plan - Six Rivers National Forest 1995 (L&RMP). The project is consistent with the L&RMP because the cultivation activities will minimize impacts to

biological resources and wildlife by adhering to International Dark Sky Standard, reducing light and noise impacts, and adding an on-site solar system.

**6. FINDING**

The cultivation of 4,850 sq. ft. of mixed-light and 2,000 sq. ft. of outdoor cannabis cultivation and the conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

**EVIDENCE**

- a) The site is in a rural part of the County where the typical parcel size is 40 acres or larger, and many of the land holdings are very large. The proposed cannabis will not be in a location where there is an established neighborhood or other sensitive receptor such as a school, church, park or other use which may be sensitive to cannabis cultivation. Approving cultivation on this site and the other sites which have been approved or are in the application process will not change the character of the area due to the large parcel sized in the area.
- b) Irrigation water for pre-existing cannabis cultivation will come from a permitted water diversion (POD1) under Water Right Certificate H100730.
- c) A Road Evaluation Report (RER) was prepared for the access route to the project site from Hwy 36, which includes photos and a route map showing photo locations taken at pinch point areas on the road. The RER designates the access roads County Line Creek Road and Salyer Mad River Road as being developed to the equivalent of a category 4 standard, and it has been determined that the access route meets the functional capacity for the project's needs.

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

**8. FINDING**

Approval of this project is consistent with Humboldt County Board of Supervisors Resolution No. 18-43 which established a limit on the number of permits and acres which may be approved in each of the County's Planning Watersheds.

- a) The project is located in the Mad River Planning Watershed, which under Resolution 18-43 is limited to 334 permits and 115 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 65 permits and the total approved acres would be 24.73 acres of cultivation.

**DECISION**

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

- Adopt the findings set forth in this resolution; and
- Conditionally approves the Special Permits for MDRV Realty Holdings, LLC, based upon the Findings and Evidence and 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 **May 5, 2022**.

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

## ATTACHMENT 1

### REVISED CONDITIONS OF APPROVAL

#### **APPROVAL OF THE SPECIAL 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 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. The Department will file the NOD and will charge this cost to the project.
5. The applicant shall decommission all water bladders on-site within two years from the date of approval.
6. 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 #7 through #12. 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.
7. The applicant shall secure permits for all structures related to the cannabis cultivation and other commercial cannabis activity, including but not limited to: two (2) mixed-light greenhouses, one (1) greenhouse for ancillary propagation, two (2) storage sheds, and one (1) generator shed. 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.
8. The applicant is conditioned to permit historic grading that occurred on-site with the Building Division. The plan shall identify the cubic yards of all grading that has been completed. A letter or similar communication from the Building Division verifying that all grading related to the cannabis cultivation operation are permitted, or not needed, will satisfy this condition.

9. The applicant shall contact the State Water Board Division of Water Rights to update the Water Right Certificate H100730 to include diversion for the purpose and use of irrigation on APN: 208-241-006 for 0.17 acres, and shall submit the updated Water Right Certificate to the Planning Division.
10. The applicant shall permit the proposed solar system with the Building Division.
11. The applicant shall complete the Timber Conversion Reports recommendation to address road surface points on roads leading to conversion sites and a watercourse crossings at SC#2, shown in the TCR Map.
12. The applicant shall have a Road Evaluation Report prepared by a licensed Civil Engineer, in order to assess the access roads and recommend improvements for the roads, and shall submit to Planning Division. The applicant shall be required to complete 100% of the improvements recommended within the RER prior to being able to continue cultivating at the site.
13. 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.
14. 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.

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

1. The applicant shall provide receipts or other equivalent documentation annually to the Planning Division for proof of portable toilet service until the applicant has obtained a permitted septic system on-site with DEH.
2. The applicant shall have documentation kept on-site to show the use of an off-site licensed processing facility, to be furnished during an annual inspection.
3. The applicant is conditioned to comply with the limitations and conditions set forth in the Water Right Certificate H100730, or subsequent Water Right, such as forbearance and diversion rate restrictions.
4. The applicant shall adhere to the recommendations and BPTC's listed in the Site Management Plan that was prepared by Mother Earth Engineering.
5. The applicant shall abide by and adhere to the terms, project description and work outlined within the final signed Streambed Alteration Agreement (SAA No. EPIMS-HUM-15838-R1), obtained with CDFW.
6. 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 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.
7. All artificial lighting shall be fully contained within structures such that no light escapes (e.g., through 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; 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.6. and B.7., 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.
9. The applicant shall utilize the on-site parking area shown in the Site Plan and shall not block the access route through Eight Mile Ridge Road.
10. Prohibition on use of synthetic netting. To minimize the risk of wildlife entrapment, 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.
11. All refuse shall be contained in wildlife proof storage containers, at all times, and disposed of at an authorized waste management facility.
12. Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and be allowed to leave the work site unharmed.
13. The use of anticoagulant rodenticide is prohibited.
14. 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.
15. All components of 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.
16. Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws and regulations as set forth in the CMMLUO and MAUCRSA, as applicable to the permit type.
17. 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.

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, as soon as such licenses become available.
19. 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.
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 55.4.11 (d).
21. Maintain enrollment in Tier 1 or 2, certification with State Water Resource Control Boards (SWRCB) General Order No. WQ 2019-0001-DQW, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
22. 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.
23. Consent to an annual on-site 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).
24. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
25. Pay all applicable application, review for conformance with conditions and annual inspection fees.
26. 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.
27. The master log books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
28. 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

29. Pursuant to Business and Professions Code section 26051.5(a)(8), 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."
30. 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).
31. 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.
32. 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.
33. 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. On-site housing, if any
34. Term of Commercial Cannabis Activity Special Permit. Any Commercial Cannabis Cultivation SP 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.
35. 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 55.4.13.

36. 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.
37. 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.
38. 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.
39. 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 #6 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 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 informed that the spring diversion located on Six Rivers National Forest APN: 208-241-005, under Streambed Alteration Agreement (SAA No. EPIMS-HUM-15838-R1) with CDFW allowing the use of the spring to be used for domestic purposes only on APN's: 208-241-006 & 208-241-007, is not allowed for the use of cannabis irrigation.

**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 208-241-006; Dinsmore/Mad River Area  
County of Humboldt**

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

**April 2022**

## Background

### **Modified Project Description and 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 Mitigated Negative Declaration (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 environmental impacts of the project to a less than significant level.

### **Project Description:**

The modified project involves a Special Permit for 2,000 square feet (sf) existing outdoor and 4,850 sf existing mixed-light cannabis cultivation with a 720 sf ancillary propagation area. Water for irrigation is provided by a stream diversion on-site. A Special Permit is being requested for the continued use and maintenance of the stream diversion. There is a total of 110,000 gallons of water storage on-site in fifteen (15) hard sided tanks, and three (3) 20,000 gallon water bladders (two bladders are temporary water storage for the adjacent parcel 208-241-007). Estimated annual water usage is 50,000 gallons. Drying and curing will occur on-site and trimming will occur off-site at a licensed processing facility. Up to two (2) employees are used for on-site operations. Power is sourced from an on-site generator, and future solar is proposed. An additional Special Permit is being requested to reduce the 600-foot setback to public lands (SRNF).

The applicant utilizes portable toilets to serve on-site wastewater treatment system needs. The project was referred to the Department of Environmental Health (DEH) on April 25, 2019, and comments were received by the agency on April 30, 2019, recommending conditional approval for the project. The applicant shall provide receipts or other equivalent documentation annually to the Planning Division for proof of portable toilet service until the applicant has obtained a permitted septic system on-site with DEH.

The project was referred to the Building Division on April 25, 2019, and a site inspection was conducted on June 13, 2019. Comments from the Building Division included to submit a revised Site Plan and obtain the necessary building permits for all structures and grading associated to cannabis activities on-site. A revised Site Plan has been submitted. There are a total of two (2) mixed-light greenhouses, one (1) proposed ancillary nursery greenhouse, and one (1) 2,000 sf full-sun outdoor area. There are two (2) existing storage sheds, and one (1) generator shed. Drying and curing will occur on-site and processing will occur off-site at a licensed processing facility. The applicant shall keep documentation of proof of third-party processing service, to be furnished during an annual inspection. The applicant is conditioned to obtain building permits for all existing and proposed structures with a nexus to cannabis, including but not limited to: two (2) mixed-light greenhouses, one (1) greenhouse for ancillary propagation, two (2) storage sheds, one (1) generator shed, and grading activities association with the cultivation area.

### **Energy**

The applicant currently utilizes one (1) generator on-site, which is housed within a generator shed. The applicant plans to transition to on-site solar power. The applicant shall permit the proposed solar system with the Building Division.

## **Setbacks**

The project is located within 600 feet of public lands, the Six Rivers National Forest (SRNF). The nearest proposed cultivation area is located approximately 320 feet to the SRNF boundary, and the applicant is requesting a Special Permit to allow a setback reduction to public lands. The project was referred to the SRNF on April 25, 2019, and no comments were received. The project is consistent with recreational use on public lands as the proposed project is not located near developed campgrounds, trails, or other related public facilities.

The adjacent public land is subject to the Land and Resource Management Plan - Six Rivers National Forest 1995 (L&RMP). The project is consistent with the L&RMP because the cultivation activities will minimize impacts to biological resources and wildlife by adhering to International Dark Sky Standard, reducing light and noise impacts, and adding an on-site solar system.

## **Water Resources**

The project will source water from an on-site stream diversion, POD1 under Water Right Certificate H100251 & H100730. The project was referred to the State Water Board Division of Water Rights on April 25, 2019, and comments were received on April 29, 2019, recommending approval for the project under Water Right Certificate H100251. Water Right Certificate H100251, dated 8/27/2018, lists the subject parcel but states that diversionary water is to be used for 0 acres of irrigation on APN: 208-241-006. An updated Water Right Certificate H100730, dated 11/25/2019, (updating the Right Holder as the current property owner, and increasing the overall water allowed to be diverted) includes POD1 on APN: 208-241-006, but only shows adjacent parcel APN: 208-241-007 for purpose and use. The adjacent parcel (application PLN-11212-CUP) will only utilize POD 2 in the Water Right Certificate, and all water sources are separate for the adjacent projects. The applicant shall contact the State Water Board Division of Water Rights to update the Water Right Certificate H100730 to include for the purpose and use of irrigation on APN: 208-241-006 for 0.17 acres, and shall submit the updated Water Right Certificate to the Planning Division. Water Right Certificate H100730 allows for the annual diversion of up to 0.94 acre-feet (306,300 gallons), which is a sufficient amount of water for the purpose and use on APN's: 208-241-006 & 208-241-007 (which are estimated to use a total of 200,000 gallons of water annually). The applicant shall adhere to the terms and restrictions in the Water Right Certificate H100730, or subsequent Water Right, such as forbearance and diversion rate requirements. Estimated annual water needed for irrigation on-site is approximately 50,000 gallons. There is a total of 110,000 gallons of water storage on-site in fifteen (15) hard sided tanks, and three (3) 20,000 gallon water bladders. Two (2) 20,000 gallon bladders in the southern portion of the property are temporary water storage designated for the adjacent parcel to the south 208-241-007, and one (1) 2,500 gallon tank is proposed for fire suppression. The applicant shall decommission all water bladders on-site within two years from the date of approval. The final amount of water storage on-site will be 50,000 gallons, after the water bladders are removed.

The site was historically enrolled in the North Coast Regional Water Quality Control Board's Order No. R1-2015-0023, under WDID: 1B161267CHUM. The applicant has also enrolled in the State Water Resources Control Board's (SWRCB) General Order WQ 2019-0001-DWQ, as a Tier 2 Low Risk site. A Notice of Applicability letter dated December 26, 2019, was submitted as proof of enrollment under WDID: 1\_12CC417973. The applicant has had a Site Management Plan (SMP) prepared by Mother Earth Engineering, to show mitigation measures required for the project to meet Water Board standards, received December 8, 2021. The SMP was prepared for both adjacent parcels APN's: 208-241-006 & 208-241-007, and lists Best Practicable Treatment or Controls (BPTC) for the project. The applicant shall adhere to the recommendations and BPTC's listed in the SMP.

There are four (4) culverts on-site that need replacing, a stream point of diversion located on-site for irrigation (POD1 under Water Right Certificate H100730), and a spring point of diversion located on the adjacent parcel to the north for domestic uses. The applicant has obtained a Streambed Alteration Agreement (SAA No. EPIMS-HUM-15838-R1) with the California Department of Fish & Wildlife (CDFW) for all in-stream work associated with the project. The applicant is conditioned to abide by and adhere to the terms, project description and work outlined within the final signed SAA No. EPIMS-HUM-15838-R1 with CDFW.

### **Timber Conversion**

The site contains timber conversion, and the applicant had a Timber Conversion Report (TCR) prepared by Blair Forestry Consulting, dated January 13, 2018. The TCR was combined for the two (2) adjacent parcels owned and operated by the applicant, and estimates that a total of 1.15 acres of timber conversion occurred in total on both parcels. The TCR recommends that the applicant address road surface points on roads leading to conversion sites and a watercourse crossings at SC#2. The project and TCR was referred to CalFire on April 25, 2019, and the agency replied stating that they had no comments on the proposed project.

### **Fire Hazard**

The project is located in an area designated to have high fire hazard severity, and is within the Ruth Lake Community Services District (RLCSD) for fire response. The project was referred to the RLCSD on April 25, 2019, and no comments were received from the agency. There is ample room on-site for a firetruck turnaround, and a 2,500 gallon water tank is proposed for fire suppression.

### **Biological Resources**

The project is located approximately 0.87 miles to the nearest known Northern Spotted Owl (NSO) activity center, and no rare or endangered species are shown on or near the subject parcel in the California Natural Diversity Database (CNDDDB). The applicant has enrolled in the SWRCB's Order No. 2019-001-DWQ for waiver of waste discharge, all cultivation areas are located outside of any streamside management areas on-site, and the applicant plans to add a future solar system on-site. As the site is pre-existing, and there is no new development proposed, the applicant was not required to provide a Biological Report for the project. The applicant is required to comply with International Dark Sky Standards, and shall not allow any light to escape from mixed-light or nursery greenhouses from dusk to dawn, and shall ensure that all noise levels do not go above 50 decibels at any tree line or 100 feet when noise generating equipment are in use.

### **Tribal Cultural Resource Coordination**

The project is located in the Bear River Band Aboriginal Ancestral Territories. The project was referred to the Northwest Information Center (NWIC), and the Bear River Band Tribe on April 25, 2019. The NWIC replied on May 6, 2019, recommending that the local Native American tribes be contacted regarding traditional, cultural, and religious heritage values. The Bear River Band THPO replied on July 12, 2019 requesting a Cultural Resource Survey (CRS) for the project. The applicant has obtained a CRS for the project site, which was prepared by Dimitra Zalarvis-Chase, M.A., RPA, with DZC Archaeology & Cultural Resource Management, dated December 2019. The CRS states that the archaeological survey was negative for cultural resources, and that there will be no adverse effects or changes to any historic resources on the project site. The applicant shall adhere to Inadvertent Discovery Protocols, as requested by the Bear River Band THPO on March 24, 2021.

### **Access**

Access to the site is from Eight Mile Ridge Road, from County Line Creek Road, from State Hwy 36. Both Eight Mile Ridge Road and County Line Creek Road are non-county maintained roads off of Hwy 36. The applicant has submitted a Road Evaluation Report (RER) form for the access route from Hwy 36, (calling Eight Mile Ridge Road as Ridge Road, and County Line Creek Road as Salyer Mad River Road, named as such on Google Earth) which includes photos and a route map showing photo locations taken at pinch point areas on the road. The RER designates the private access roads as being developed to the equivalent of a category 4 standard, and states that the roads are adequate for the proposed use without further review from the applicant. All approved projects off of the access road will be required to have a Road Maintenance Association developed and will be required to maintain the road through the County's post-approval monitoring team. The project was referred to the Department of Public Works on April 25, 2019, and comments were received on April 29, 2019. Comments from Public Works stated that the access route is from a series of non-county maintained roads that connect directly to State Hwy 36, and recommended that the project be referred to CalTrans. The project was referred to CalTrans on July 18, 2019, and no comments were received by the agency.

### **Public Comment**

A public comment from an anonymous neighbor was submitted in the form of a phone call and also in a subsequent email. Another neighbor attended the previous hearing date on March 3, 2022, and stated their same concerns regarding the project. The public commenters addressed concerns about the constant use and road damage of up to one mile of Eight Mile Ridge Road used by employees between the two adjacent parcels (APN's: 208-241-007 & 208-241-006 owned and operated by the applicant) which runs through three (3) neighboring parcels, safety concerns regarding unsafe traffic on the access roads, employee parking on Eight Mile Ridge Road blocking through access, theft issues with applicant's employees, concerns about the reported annual water usage being underestimated, concerns about the use of a spring located on Six Rivers National Forest for cannabis irrigation, safety concerns regarding fire hazard with generator usage, gates being left unlocked, and light and noise pollution complaints.

A response to the public comment was received by the applicant on March 21, 2022, addressing the concerns stated by the neighbors. The applicant states that he purchased the properties last year, and 2021 was the first cultivation season run by the current applicant. The applicant states that he never met any neighbors at the site, and that the easement road that connects the two properties does not pass any residences that he is aware of. Nor was the applicant aware of any theft allegations, or any presence of light or noise pollution, which may have occurred during the previous applicant's ownership of the project. The applicant has also stated that his employees share the work through both projects, but in the event that one project is sold, they would not utilize more than two (2) employees per project, and would not result in more than 1 vehicle trip (but in actuality 2 vehicle trips to and from) per day per parcel. The applicant has also stated that they will discontinue the use of Eight Mile Ridge Road to access the two sites and will instead utilize a skid trail that connects the two adjacent parcels. As well, there are three parking spaces shown on the Site Plan, and the applicant shall utilize the on-site parking area and shall not block the access route through Eight Mile Ridge Road.

The applicant does have a Streambed Alteration Agreement (SAA No. EPIMS-HUM-15838-R1) with CDFW allowing the use of the spring located on the Six Rivers National Forest APN: 208-241-005, to be used for domestic purposes only on APN's: 208-241-006 & 208-241-007. There is also an appropriated Water Right (D030916) which expired on July 1, 2014, and the applicant has submitted a request to renew the Water Right for the use of domestic purposes on APN's: 208-241-006 & 208-241-007. The applicant shall be informed that the spring diversion on Six Rivers National Forest is not allowed for the use of cannabis irrigation.

### **Consistency with Humboldt County Board of Supervisors Resolution No. 18-43**

Planning staff determined approval of this project is consistent with Humboldt County Board of Supervisors Resolution No. 18-43, which established a limit on the number of cultivation permits and acres which may be approved in each of the County's Planning Watersheds. The project site is located in the Mad River Planning Watershed, which under Resolution 18-43 is limited to 334 permits and 115 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 65 cultivation permits and the total approved acres would be 24.73 acres of cultivation.

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. These include ensuring supplemental lighting and security lighting adheres to Dark Sky Association standards, ensuring project related noise does not harass nearby wildlife which will limit impacts to biological resources as a result of light and noise, abiding by a forbearance period for the stream diversion, transitioning to on-site solar power, and adhering to Inadvertent Discovery Protocols.

**Purpose** - 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.

### **Summary of Significant Project Effects and Mitigation Recommended**

No changes are proposed for the original MND recommended mitigations. The proposal to authorize the continued operation of an existing cannabis cultivation site consisting of 7,620 sq. ft. of outdoor cultivation with ancillary propagation and drying activities 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 Green Road Consulting received 2/10/2022.
- Cultivation and Operations Plan received 12/8/2021.
- Addendum to Cultivation & Operations Plan received 2/2/2022.
- Water Right Certificates H100251 & H100730.
- Notice of Applicability letter dated December 26, 2019, for enrollment in the SWRCB General Order WQ 2019-0001-DWQ, WDID: 1\_12CC417973.
- Site Management Plan prepared by Mother Earth Engineering, dated 9/24/2019.
- A Streambed Alteration Agreement No. EPIMS-HUM-15838-R1, received 2/2/2022.
- A Timber Conversion Report prepared by Blair Forestry Consulting, dated 1/13/2018.
- A Road Evaluation Report for County Line Creek Road and Salyer Mad River Road, dated 9/15/2018.
- Cultural Resources Investigation prepared by Dimitra Zalarvis-Chase, M.A., RPA, with DZC Archaeology & Cultural Resource Management, dated December 2019.
- Division of Environmental Health Attachment for Commercial Medical Marijuana (CMM) Clearances/ Permits.

### **Other CEQA Considerations**

Staff suggests no changes for the revised project.

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

See **Purpose** statement above.

In every impact category analyzed in this review, the projected consequences of the current project proposal are either the same or less than significantly increased than the initial 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. 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. (Application form 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. **(Attached with project Maps)**
4. A cultivation and operations plan that meets or exceeds minimum legal standards for water storage, conservation and use; drainage, runoff and erosion control; watershed and habitat protection; proper storage of fertilizers, pesticides, and other regulated products to be used on the parcel; and 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. **(Attached)**
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. (Water Right Certificate H100251 & H100730 - **Attached**)
6. Description of water source, storage, irrigation plan, and projected water usage. (Included in Cultivation Operations Plan (item 4. above), and Updated Water Usage Chart **Attached**)
7. Copy of Notice of Intent and Monitoring Self-Certification and other documents filed with the North Coast Regional Water Quality Control Board demonstrating enrollment in Tier 1, or 2 with the North Coast Regional Water Quality Control Board Order No. WQ 2019-0001-DWQ, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency. (Notice of Applicability letter dated December 26, 2019, WDID: 1\_12CC417973 – **Attached**)
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 Streambed Alteration Permit obtained from the California Department of Fish and Wildlife. (Streambed Alteration Agreement No. EPIMS-HUM-15838-R1, received 2/2/2022 – **Attached**)
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. (Timber Conversion Report prepared by Blair Forestry Consulting, dated 1/13/2018 - **Attached**)

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, identify the source of electrical power and how it will meet with the energy requirements in Section 55.4.8.2.3, and plan for compliance with applicable building codes. (Not applicable)
13. Acknowledge 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. Acknowledge 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. A Road Evaluation Report prepared for County Line Creek Road, and Salyer Mad River Road, dated 9/15/2018. (**Attached**)
16. A Site Management Plan prepared by Mother Earth Engineering dated 9/24/2019. (**Attached**)
17. A Cultural Resources Investigation was Cultural Resources Investigation prepared by Dimitra Zalarvis-Chase, M.A., RPA, with DZC Archaeology & Cultural Resource Management, dated December 2019. (On-file and Confidential)
18. 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 referral agencies for review and comment. Those agencies that provided written comments are checked off.

<b>Referral Agency</b>	<b>Response</b>	<b>Recommendation</b>	<b>Location</b>
Building Inspection Division	✓	Recommend Denial	<b>Attached</b>
Division Environmental Health	✓	Conditional Approval	<b>Attached</b>
Public Works, Land Use Division	✓	Comments	<b>Attached</b>
CalFIRE	✓	Comments	<b>Attached</b>
Northwest Information Center	✓	Comments	On file and confidential
Bear River Band THPO	✓	Comments	On file and confidential
Humboldt County Sheriff	✓	Approved	On file
State Water Resources Control Board – Division of Water Rights	✓	Approved	<b>Attached</b>
US Forest Service		No Response	
Ruth Lake Fire Protection District		No Response	
Trinity Alps Joint Unified School District		No Response	
South Trinity Joint Unified School District		No Response	
Southern Humboldt Joint Unified School District		No Response	
California Department of Fish & Wildlife		No Response	
CalTrans District 1		No Response	
Humboldt County Agricultural Commissioner		No Response	
District Attorney		No Response	
North Coast Regional Water Quality Control Board		No Response	
North Coast Unified Air Quality Management District		No Response	
Humboldt County Counsel		No Response	

**ATTACHMENT 5**  
**PUBLIC COMMENTS**