

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; Meeting on January 12, 2021

Resolution No. ____ - ____ Resolution of the Board of Supervisors of the County of Humboldt MAKING FINDINGS RELATIVE TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, ADOPTING FINDINGS OF FACT, DENYING THE APPEAL FOR RECORD NO. PLN-2020-16848 AND APPROVING THE MATTOLE RIVER FARMS, LLC CONDITIONAL USE PERMIT, RECORD NO. PLN-11752-CUP.

WHEREAS, Mattole River Farms, LLC applied for a Conditional Use Permit for 17,000 square feet of existing outdoor and 4,800 square feet of existing mixed-light commercial cannabis cultivation under the County’s Commercial Medical Marijuana Land Use Ordinance (CMMLUO) on December 12, 2016, and

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

WHEREAS, on November 19, 2020 the Planning Commission approved the Conditional Use Permit as recommended in the staff report with a 7-0 vote

WHEREAS, Mattole River Farms, LLC (“Appellant”) on December 7, 2020, filed an appeal in accordance with the Appeal Procedures specified in Humboldt County Code Section 312-13 et seq.; and

WHEREAS, the Board of Supervisors held a duly-noticed public hearing, *de-novo*, on January 12, 2021 and reviewed, considered, and discussed the application and appeal for the Conditional Use Permit; and reviewed and considered all public testimony and evidence presented at the hearing.

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

- 1. FINDING:** **Project Description:** The project being approved is a Conditional Use Permit for 11,400 square feet existing cannabis cultivation, of which 6,600 square feet is existing outdoor an 4,800 square feet is existing mixed light. Propagation occurs in a 1,140 square foot nursery. Cultivation activities include one full-term outdoor harvest and two mixed light harvests annually. Irrigation water is provided by a 1-million-gallon rain catchment pond. Estimated annual irrigation use is 275,000 gallons. Processing, including

drying and trimming, occurs within the existing shop building on-site. Up to four workers are needed. Power is provided by P.G.&E. and solar panels.

EVIDENCE: a) Project File: PLN 11752-CUP

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

EVIDENCE: a) The applicant has prepared a Road Evaluation Report which demonstrates that Huckleberry Road is capable of safely serving the traffic associated with the cultivation.

b) A Site Management Plan for the operation has been prepared by Elevated Solutions LLC which includes provisions to prevent runoff from the cultivation resulting in erosion, sedimentation or other contamination of surface or ground water.

c) A Cultural Resources Survey was prepared by William Rich which documents that there are no sensitive cultural or archaeological resources on the site which would be impacted by the cultivation operation.

d) Irrigation water will be provided solely by rainwater catchment.

e) There are no known sensitive plant or animal species on or adjacent to the property that would be impacted by the continued operation of a cannabis cultivation facility.

FINDINGS FOR CONDITIONAL USE PERMIT

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. General agriculture is also a permitted use in the Unclassified (U) zoning district. The proposed cannabis cultivation, an agricultural product, is within land planned and zoned for agricultural purposes, consistent with the use of Open Space land for managed production of resources. The use of an agricultural parcel for commercial agriculture is consistent with the Open Space Plan and Open Space Action Program. Therefore, the project is consistent with and complimentary to the Open Space Plan and its Open Space Action Program.

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

- EVIDENCE**
- a) The Unclassified or U Zone is applied to areas of the County where there has not been sufficient study to justify precise zoning classifications.
 - b) All general agricultural uses are principally permitted in the U zone.
 - c) Humboldt County Code (CMMLUO) section 314-55.4.8.2.2 allows existing cultivation in U zone subject to approval of a Conditional Use Permit.

5. FINDING The project is consistent with the requirements of the CMMLUO Provisions of the Zoning Ordinance.

- EVIDENCE**
- a) The CMMLUO states a Use Permit may be issued for outdoor or mixed-light commercial cannabis cultivation for some or all of the cultivation area in existence prior to January 1, 2016 in areas zoned U (HCC 314-55.4.8.2.2). No expansion of cultivation is permitted.
 - b) The applicant applied for existing cannabis cultivation. The applicant's evidence consisted of a Site Plan that stated cannabis cultivation existing on the parcel prior to January 1, 2016, testimony by previous property owners and a video clip from the television show "Pot Cops" which shows the apple and quince orchard in the background. The previous landowners under whom the application was submitted in 2016, Michael Hoffman and Karen Ruth, attest to growing approximately 500-600 cannabis plants dispersed in between the rows of an orchard. People who were guests at the residence have testified they observed hundreds of plants growing in the orchard. The previous owners state cultivation was hidden such that neighboring residences could not see it. Adjacent landowners have stated they did not observe cannabis in the orchard, and therefore consider the application to be an expansion of cultivation area. Aerial imagery provided by Google Earth and TerraServer between 2013 and 2016, the years in which cultivation was stated to have occurred in the orchard, do not show evidence of the presence of cannabis cultivation. The applicant provided pictures of depressions in the ground that are claimed remnants of cannabis cultivation; but this information is inconclusive in establishing the existence of cannabis prior to January 1, 2016. In July 2019, staff conducted a Cultivation Area Verification based on September 2015 TerraServer imagery and found 6,600 square feet of outdoor cultivation in a garden plot below the solar panels and in pots scattered around the greenhouse. As a result of this evidence and in compliance with the CMMLUO, cultivation in the amount of 6,600 square feet outdoor and 4,800 square feet mixed-light is supported.

6. FINDING The cultivation of 11,400 square feet of 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 located on a private driveway off Huckleberry Lane. The applicant has certified and staff has verified the access meets the functional equivalent of a Category 4 road.
 - b) The site is in a rural part of the County where the typical parcel size is 5 to 20 acres. There are permitted cannabis sites along Huckleberry Lane. The average size of cultivation sites is approximately 9,600 square feet. Comments from adjacent property owners were concerned that the proposal to cultivate 17,000 square feet in new greenhouses would be out of scale with the surrounding area. The neighbors were strongly opposed to granting the application request for 17,000 square feet of cultivation because they consider it an expansion of the existing cultivation area. The 11,400 square feet of cultivation in an existing greenhouse and outdoor will be in keeping with the historic cultivation at the site.
 - c) The location of the proposed cannabis cultivation is more than 800 feet from the nearest off site residence.
 - d) Irrigation water will come from a permitted off-stream rainwater catchment pond.

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.

FINDINGS FOR APPEAL

8. FINDING: The grounds for appeal are not adequate to warrant granting the appeal.

- EVIDENCE:**
- a) The appellant argues that their right to due process was violated because they were prevented from providing witnesses and evidence at the hearing.
 - i) The project was pulled from the consent calendar by a member of the public and staff gave a presentation which discussed the disagreement in cultivation area. Chair Bongio opened the public hearing and heard comment from member of the public who asked to have the item removed from consent. Chair Bongio then asked whether anyone else from the public wanted to speak, paused briefly, and seeing no hands raised, brought it back to the Commission for deliberation.

Commissioner Pellegrini then made a motion to approve the project. The agent for the applicant, raised her hand to comment after the public comment period of the hearing had been closed by the chair of the Planning Commission. The Planning Commission did not violate due process because they did not prevent anyone from speaking or providing testimony.

- b) The appellant argues that they were denied the ability to confront and cross-examine witnesses.
 - i) The appellant/applicant was given an opportunity to provide public comment and did not request to do so until after the chair of the Planning Commission closed the public comment section of the hearing. A public hearing does not include provisions for confronting and cross examining witnesses
- c) The appellant argues that the appellant/applicant was denied the right to a neutral fact finder because the deprivation of the right to speak is evidence that the Planning Commission was biased against them.
 - i) The appellant/applicant did not request to speak until after the chair of the planning Commission closed the public comment portion of the hearing. The applicant did not pull the item from the consent calendar, the member of the public who spoke against the larger square footage did. The silence of the applicant gave evidence that they were in agreement with the recommendation by staff that the Planning Commission followed. It is not unusual for an applicant to remain quiet if they are in agreement with the staff recommendation. The Planning Commission did not deprive the appellant/applicant of the right to speak.
- d) The appellant argues that denial of the larger amount of cultivation requested would result in an uncompensated taking under both state and federal law.
 - i) The Planning Commission approved a Conditional Use Permit to allow for 11,400 square feet of existing commercial cannabis cultivation on the property. The appellant/applicant has not provided sufficient to demonstrate that the approval of 11,400 square feet of commercial cannabis cultivation constitutes an uncompensated taking. The subject site is zoned Unclassified, which under the CMMLUO would allow up to 10,000 Square Feet of mixed light or outdoor cultivation, subject to issuance of a Zoning Clearance Certificate demonstrating compliance with all ordinance provisions. The applicant has chosen to apply for a greater amount of pre-existing cultivation as allowed by the CMMLUO which is subject to review and approval of a Conditional Use Permit. A CUP is a discretionary action which allows the County a great amount of potential actions to approve, conditionally approve or deny the

application. The applicant is attempting to obtain approval of a CUP for pre-existing cultivation. The applicant must demonstrate the existence of the pre-existing cultivation area in order to receive approval of a CUP for the amount requested. If the applicant cannot satisfactorily accomplish this there can be no expectation of receiving a permit for a cultivation area in excess of what can be demonstrated. Even if the amount of cultivation area could be demonstrated, the applicant must still demonstrate that the application can comply with the requirements of the CMMLUO, that there will not be significant environmental impacts and that all findings required for approval of the permit can be made. There is a significant amount of discretion the County must exercise in deciding upon a CUP. Denial of a larger amount of cultivation under these circumstances does not constitute a taking.

NOW, THEREFORE, be it resolved that the Board of Supervisors hereby:

- 1 Declares that it has considered the Addendum and the Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO); and
- 2 Denies the Appeal submitted by Mattole River Farms, LLC identified as Record Number PLN-2020-16848 and
- 3 Approves the Conditional Use Permit for 6,600 square feet of outdoor cultivation and 4,800 square feet of mixed-light cultivation subject to the conditions of approval contained in Attachment 1 of this resolution.

The foregoing Resolution is hereby passed and adopted by the Board of Supervisors on January 12, 2021, by the following vote:

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

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

_____, Chair
Humboldt County Board of Supervisors

STATE OF CALIFORNIA)) SS. County of Humboldt

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

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

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

By: KATHY HAYES

Date: _____, 2021

By _____ Deputy

ATTACHMENT 1

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.

1. Within 60 days of project approval, the applicant shall execute a Compliance Agreement with the Humboldt County Planning Department detailing all necessary permits and infrastructure improvements described under Conditions of Approval #3-11. 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.
2. Within 90 days of the effective date of approval, the applicant shall provide a revised site plan showing the square footage of cultivation area as approved by the Planning Commission on November 19, 2020.
3. Within 90 days of the effective date of approval, the applicant shall provide a groundwater testing and containment plan that meets the criteria of providing accurate and meaningful data with which to monitor the impact of the project's use of agricultural products on the drinking water quality of adjacent parcels downslope. The monitoring plan shall also include testing in the Mattole River west of the property at a point downriver of the project site. The plan shall be submitted for review and approval by the Planning Director. The results of the testing shall be provided on an annual basis thereafter. Should the results demonstrate deleterious impacts to drinking water quality or aquatic habitat, the applicant shall either modify the project to address the issue or withdraw the project.
4. The applicant shall obtain all necessary building permits and grading permits from the Building Inspection Division (BID) for all structures related to the commercial cannabis cultivation operation, including all greenhouses, agricultural buildings, sheds, and barns used in cultivation. The applicant shall submit floor plans including dimensions with electrical, mechanical and plumbing details for all existing Agriculture Exempt Structures and an Agriculture Exempt letter of intent for each. The applicant shall submit two complete sets of construction plans developed by a California-licensed engineer for the building permits. All building plans submitted for approval shall be consistent with those approved by the Planning Commission.
5. The applicant shall secure the approval of the Division of Environmental Health for the on-site sewage disposal system showing it can accommodate the proposed use. A letter from those agencies indicating approval has been issued will satisfy this condition.
6. The applicant shall utilize portable toilet and handwashing facilities for cultivation employees only. Processing must occur off-site until permanent Onsite Wastewater Treatment System (OWTS) is installed to the satisfaction of DEH. The applicant shall furnish receipts or other documentation to the DEH for the continual use of portable toilets for employees until a permanent septic system is installed to their satisfaction. A letter or similar communication from DEH verifying that all their requirements have been met will satisfy this condition.

7. The applicant shall be compliant with the County of Humboldt's Certified Unified Program Agency 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.
8. The applicant shall provide a copy of the Notice of Applicability from the SWRCB.
9. The applicant shall provide the Planning Department of copy of the Site Management Plan developed for the parcel prepared pursuant to Tier 1 enrollment under the State Water Resources Control Board (SWRCB) Cannabis Cultivation Policy, General Order. The applicant shall provide substantial evidence that all corrective actions detailed within the Site Management Plan have been completed.
10. 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.
11. All private road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance). This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.
12. The applicant shall agree to use a water meter to demonstrate that there is sufficient water supply to meet the demands of the project. As part of the annual inspection, the applicant shall present water use records showing water use for the year broken down by month.
13. The property owner 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.
14. 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 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.

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

1. 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.
2. 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.
3. 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 towards compliance can be shown within the two years following the issuance of the provisional clearance or permit, The Planning Department may, at the discretion of the Director, provide for extensions of the provisional permit to allow for additional time to meet the outstanding requirements.
4. 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.
5. 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.
6. Power is to be supplied by P.G.&E. and solar. A generator may only be used in the case of emergency power shut-off.
7. Storage of Fuel - 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.
8. The Master Log Books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
9. Pay all applicable taxes as required by the Humboldt County Commercial Marijuana Cultivation Tax Ordinance (Section 719-1 et seq.).
10. The use of monofilament netting for all uses, including but not limited for erosion control, shall be prohibited. Geotextiles, fiber rolls, and other erosion control measure materials shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves to minimize the risk of ensnaring and strangling wildlife.

11. Leave wildlife unharmed. If any wildlife is encountered during the Authorized Activity, Permittee shall not disturb the wildlife and shall allow wildlife to leave the work site unharmed.
12. The environmental impacts of improper waste disposal are significant and well documented. All refuse shall be contained in wildlife proof storage containers, at all times, and disposed of at an authorized waste management facility.
13. 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."
14. 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, California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).
15. All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
 - i. 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.
 - ii. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
 - 8) Operation manager contacts;
 - 9) Emergency responder contacts;
 - 10) Poison control contacts.
 - iii. 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.
 - iv. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.

17. Term of Commercial Cannabis Activity Special Permit. Any Commercial Cannabis Cultivation Special Permit issued pursuant to the CMMLUO shall expire after 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.

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 Special Permit or permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the non-compliance, 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 non-compliance. Failure to request reinspection or to cure any items of non-compliance 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 of the CMMLUO.

18. 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.

Permittee further acknowledges and declares that:

- (1) All commercial cannabis activity that I, my agents, or employees conduct pursuant to a permit from the County of Humboldt for commercial cultivation, processing, manufacturing, and distribution of cannabis for adult use or medicinal use within the inland area of the County of Humboldt, shall at all times be conducted consistent with the provisions of the approved County permit; and
 - (2) All cannabis or cannabis products under my control, or the control of my agents or employees, and cultivated or manufactured pursuant to local Ordinance and the State of California Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") (SB 94), will be distributed within the State of California; and
 - (3) All commercial cannabis activity conducted by me, or my agents or employees pursuant to a permit from the County of Humboldt will be conducted in compliance with the State of California MAUCRSA.
19. 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:
- (1) Identifying information for the new Owner(s) and management as required in an initial permit application;

- (2) A written acknowledgment by the new Owner in accordance as required for the initial Permit application;
 - (3) The specific date on which the transfer is to occur; and
 - (4) Acknowledgement of full responsibility for complying with the existing permit; and
 - (5) Execution of an Affidavit of Non-diversion of Commercial Cannabis.
20. 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 of 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 of 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 #1 has been executed and the corrective actions pursuant to the agreement are being undertaken. Once building permits have been secured and/or the use initiated pursuant to the terms of the agreement, the use is subject to the Permit Duration and Renewal provisions set forth in Conditions of Approval #23 of the On-Going 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 as well as the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and 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 Section 5097.98. Violators shall be prosecuted in accordance with Public Resources Code Section 5097.99.

4. The Applicant is responsible for costs for post-approval review for determining project conformance with conditions 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 Department will send a bill to the Applicant for all staff costs incurred for review of the project for conformance with the conditions of approval. All Planning fees for this service shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
5. A Notice of Determination (NOD) will be prepared and filed with the County Clerk for this project in accordance with the State CEQA Guidelines. Within three days of the effective date of permit approval, it is requested that the applicant submit a check or money order for the required filing fee in the amount of \$50 payable to the Humboldt County Clerk/Recorder. If this payment is not received within this time period, the Department will file the NOE and will charge this cost to the project.
6. 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.