

ATTACHMENT 6

**Public Comments Received by the Humboldt County Planning and Building Department
After December 14, 2017**

Nielsen, Michelle

From: Patrick O'Brien <wcpaac@gmail.com>
Sent: Tuesday, November 27, 2018 9:58 PM
To: Nielsen, Michelle; Ford, John; Lippre, Suzanne; Fennell, Estelle; Wilson, Mike; Bohn, Rex; Sundberg, Ryan; Bass, Virginia; susan@willowcreekcsd.com; Jon Ray
Subject: The MCMP Humboldt, LLC permit application at Big Rock, Willow Creek
Attachments: 2018_11_27_mnielsen_hcb&p_04.pdf

Michelle,

the gist of the attached letter is simple: the permit that is being requested by MCMP Humboldt, LLC, cannot be granted because the proposed facility encroaches on the required 600 foot **Sensitive Receptors** setback to picnic areas and river and fishing access points to the north-east and east, and to the Willow Creek Church property, to the west.

The details pertain to the Case Numbers **ZR16-002** and **SP-16-014**. In the attached letter, I refer to document **Ord-No-2599-CCLUO-inland-certified-copy-PDF** as **docA**, and to the staff report of Dec 14, 2017, **ZR 16-002 SP 16-014 Staff Report** as **docB**.

This same information is included at the top of the attached document.

I request that the attached document, and the supporting documents already available to you (**docA** and **docB**) be made part of the staff report for the Board of Supervisors public meeting on Dec 4, 2018.

Regards,

Patrick O'Brien.

(On behalf of Willow Creek Plan Area Advisory Committee)



Tuesday, Nov. 27, 2018.

To Michelle Nielsen:

the gist of the following letter is simple: the permit that is being requested by MCMP Humboldt, LLC, cannot be granted because the proposed facility encroaches on the required 600 foot **Sensitive Receptors** setback to picnic areas and river and fishing access points to the east, and to the Willow Creek Church property, to the west.

The details pertain to the Case Numbers **ZR16-002** and **SP-16-014**. I will refer to the CCLUO document **Ord-No-2599-CCLUO-inland-certified-copy-PDF** as **docA**, and to the staff report of Dec 14, 2017, **ZR 16-002 SP 16-014 Staff Report** as **docB**.

Below are a number of sections copied from the underlying documents, **docA** and **docB**, which are annotated with reference to the PDF page number of those documents:

docA, page 7:

“Manufacturing” means a process whereby the raw agricultural product is transformed into a concentrate, an edible product, or a topical product, and the production, preparation, propagation, or compounding of cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

docA, page 16:

55.4.6.4.4 Setbacks

Standard Setbacks

Cultivation Site(s) must observe all of the following setbacks:

a) and b) removed - not relevant here

c) **Sensitive Receptors** - Six hundred feet (600’) from a Church or other Place of Religious Worship, Public Park, Tribal Cultural Resource, or School Bus Stop currently in use at the time of project application submittal. For purposes of this section, the setback requirement applicable to Public Parks, other than lands managed for open space and/or wildlife habitat, shall only be applied to designated and developed recreational facilities such as picnic areas and campgrounds, trails, river and fishing access points, and like facilities under public ownership.

d) and e) removed - not relevant here

f) Notwithstanding the above described setbacks from Sensitive Receptors and Tribal Ceremonial Sites, the setback required from these areas may also be waived or reduced with the express written consent of qualified officials or representatives representing these protected uses. For publicly owned lands managed for open space and/or wildlife habitat purposes, a setback of less than 600 feet may be allowed with a Special Permit, provided that advance notice is given to the person or agency responsible for managing or supervising the management of those lands. For School Bus Stops, a setback of less than 600 feet may be allowed with a Special Permit, where it can be demonstrated that the cultivation site would not be detrimental to students at the bus stop, due to specific conditions

g) through m) removed - not relevant here

docA, page 23:

55.4.7 CANNABIS SUPPORT FACILITIES

Cannabis Support Facilities include facilities for Distribution, Off-Site Processing, Enclosed Nurseries, Community Propagation Centers and Cannabis Testing and Research Laboratories. **All Cannabis Support Facilities must meet or exceed the setbacks from Sensitive Receptors and Tribal Ceremonial Sites specified under 55.4.6.4.4(c) and (d), unless waived or reduced pursuant to 55.4.6.4.4(f).** Where conducted within an Enclosed setting, Cannabis Support Facilities shall not be subject to the setbacks from School Bus Stops prescribed within 55.4.6.4.4(c).

docA, page 25

55.4.8.2 MANUFACTURING

Manufacturing Sites must comply with all applicable performance standards, as well as meet the Eligibility Criteria specified in Section 55.4.6.3.1 and 55.4.6.3.2 as well as comply with the Siting Criteria specified in Sections 55.4.6.4.1, 55.4.6.4.2, 55.4.6.4.3, and 55.4.6.4.4 (c), (d) and (g). All Manufacturing activities shall be conducted within an Enclosed setting and shall not be subject to the setbacks from School Bus Stops prescribed for Open Air Cultivation Activities within 55.4.6.4.4(c), except where otherwise specified.

docB, page 3

Executive Summary: The ultimate objective of this application is to develop and operate a commercial medical cannabis manufacturing facility on a portion of a parcel...

[Last sentence of para 2 on page 3 of document B]:

The 600 foot setback requirement from schools, school bus stops, churches, etc. that applies to commercial cannabis cultivation does not apply to this project because 1) it does not include cultivation; and 2) **the setback requirement does not extend to commercial cannabis manufacturing.**

docB, page 13

This setback statement excludes the whole category of Sensitive Receptors (55.4.6.4.4, c), the existence of which are clearly visible in the aerial view on page 13, at most 200 feet to the N, E, and NE of the proposed facility. In particular, as seen in on page 13, the following setbacks are not met: “shall only be applied to designated and developed recreational facilities such as **picnic areas and campgrounds, trails, river and fishing access points, and like facilities under public ownership**”

docB, page 3

I would also take issue with the following: 5 lines from the bottom of para 2, it says “... **Willow Creek Community Church’s building is approximately 600 feet ...**”.

docB, page 15

Based on the diagram on page 15, the SW corner of the proposed facility is 380 feet to the fence line of the property on which the proposed facility would be located.

Not included in this diagram, but measured by me, it is at most 140 feet to the property line of the Willow Creek Community Church, which results in a total distance of 520 feet, **so this is also within the 600’ Sensitive Receptor setback.**

From what I have read, the school bus stops are exempt for this manufacturing facility, but the other sensitive receptors clearly are not.

I request that the HCB&P department withhold support for this permit until these matters can be adequately addressed.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

ORDINANCE AMENDING PROVISIONS OF TITLE III OF THE HUMBOLDT COUNTY CODE RELATING TO THE COMMERCIAL CULTIVATION, PROCESSING, MANUFACTURING, DISTRIBUTION, TESTING, AND SALE OF CANNABIS FOR MEDICINAL OR ADULT USE FOR THE AREAS OUTSIDE THE COASTAL ZONE

ORDINANCE NO. 2599

The Board of Supervisors of the County of Humboldt ordains as follows:

SECTION 1. Section 314-55.4 of Chapter 4 of Division 1 of Title III of the Humboldt County Code, known as the Commercial Medical Marijuana Land Use Ordinance, with the exception of Section 314-55.4.8.11, are hereby repealed. Section 314-55.4.8.11 is recodified as Section 314-55.4.10.10.

SECTION 2. Section 314-55.3.11.7, of Chapter 4 of Division 1 of Title III of the Humboldt County Code, with respect to on-site consumption of medical cannabis in Medical Cannabis Dispensaries, are hereby repealed.

SECTION 3. Sections 314-55.3.7 and 314-55.3.15 of Chapter 4 of Division 1 of Title III of the Humboldt County Code, with respect to Medical Cannabis Testing and Research Laboratories, are hereby repealed.

SECTION 4. Section 314-55.4 of Chapter 4 of Division 1 of Title III of the Humboldt County Code is hereby adopted as follows:

314-55.4 COMMERCIAL CULTIVATION, PROCESSING, MANUFACTURING, DISTRIBUTION, TESTING, AND SALE OF CANNABIS LAND USE REGULATION FOR THE INLAND AREA OF THE COUNTY OF HUMBOLDT.

55.4.1 AUTHORITY AND TITLE

This Section shall be known as the Commercial Cannabis Land Use Ordinance (“CCLUO”), regulating the commercial cultivation, processing, manufacturing, distribution, testing, and sale of cannabis for medicinal or adult use within the Inland Area of the County of Humboldt.

55.4.2 PURPOSE AND INTENT

The purpose of this Section is to establish land use regulations concerning the commercial cultivation processing, manufacturing, distribution, testing, and sale of cannabis for medicinal or adult use within the County of Humboldt in order to encourage safe, reasonable and responsible growth that reduces negative impacts on our community and environment, increases public awareness, and community health and safety while creating a clear and attainable path for operators to follow and authorities to enforce.

These regulations are intended to ensure the public health, safety and welfare of residents of the County of Humboldt, visitors to the County, persons engaged in regulated commercial cannabis activities including their employees, neighboring property owners, and end users of medicinal or

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

adult use cannabis; to protect the environment from harm resulting from cannabis activities, including but not limited to streams, fish, and wildlife, residential neighborhoods, schools, community institutions and Tribal Cultural Resources; to ensure the security of state-regulated medicinal or adult use cannabis; and to safeguard against the diversion of state-regulated medicinal or adult use cannabis for purposes not authorized by law. To this end, these regulations identify where in the County the various types of commercial cannabis activities can occur, and specify what type of permit is required, the application process and the approval criteria that will apply.

This Section is not intended to supersede the provisions of Sections 313-55.1, 314-55.1, 313.55.2, or 314.55.2 of this Code concerning cultivation of medical marijuana for personal use by patients or caregivers, or contravene the provisions of Health and Safety Code section 11357, 11358, 11362.1, 11362.2, or 11362.5 with respect to the possession or cultivation of limited amounts of cannabis for personal use by qualified patients or persons 21 years of age or older.

55.4.3 APPLICABILITY AND INTERPRETATION

55.4.3.1 All facilities and activities involved in the commercial cultivation, processing, manufacturing, and distribution, testing, and sale of cannabis within the jurisdiction of the County of Humboldt outside of the Coastal Zone shall be controlled by the provisions of this Section, regardless of whether those activities existed or occurred prior to the adoption of this Section. Applications for Commercial Cannabis Activity land use permits filed on or before December 31, 2016 shall be governed by the regulations in effect at the time of their submittal, except as follows and is otherwise prescribed herein. Zoning Clearance Certificate applications for Open Air Cultivation filed on or before December 31, 2016 shall be controlled by the provisions of section 55.4.6.7 of this Section.

55.4.3.2 Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, manufacture, or distribution of cannabis from compliance with all other applicable Humboldt County zoning, land use, grading, and streamside management area regulations as well as other applicable provisions of the County Code.

55.4.3.3 Nothing in this Section is intended, nor shall it be construed, to exempt the commercial cultivation, processing, manufacture, or distribution of cannabis, from any and all applicable local and state construction, electrical, plumbing, water rights, waste water discharge, water quality, streambed alteration, endangered species, or any other environmental, building or land use standards or permitting requirements.

55.4.3.4 The definitions in this Section are intended to apply solely to the regulations in this Section. Applicable definitions in Humboldt County Code Section 314-135 et seq. and Section 111-1 et seq. may also apply to this Section.

55.4.3.5 A Zoning Clearance Certificate or Permit issued by the County of Humboldt pursuant to the CCLUO for any Commercial Cannabis Activity regulated by this Section, or Section 314-55.3, shall be valid for either adult use or medicinal use state licensed commercial cannabis activities, or both, if so allowed pursuant to state statute or regulation.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

55.4.3.6 Wherever the word “marijuana” appears in any provision of the Humboldt County Code, it shall also be deemed to apply or refer to “cannabis.”

55.4.3.7 Wherever the terms “medical marijuana,” “medical cannabis,” “marijuana for medical use,” or “cannabis for medical use,” may appear in regulations in the Humboldt County Code, the regulations shall also apply equally to the adult use of cannabis by persons 21 years of age or older.

55.4.3.8 Zoning Clearance Certificates and Permits issued for commercial cannabis activities pursuant to the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) as set forth in Ordinance No. 2559 shall remain valid, and shall be governed by the terms and conditions of that ordinance until such time as the permit is modified. Holders of such permits may apply for state licenses for either medicinal or adult use license categories, or any combination thereof as may be permitted under state statute and regulations.

55.4.3.9 Notwithstanding the provisions of the Right to Farm Ordinance, Section 314-43.2.6 of the Humboldt County Code, the commercial cultivation of cannabis is a highly regulated specialty crop and the cultivation and processing of that specialty crop shall not be allowed as a principal permitted use under the General Agriculture use type classification applicable within the County of Humboldt. Commercial Cannabis Cultivation requires County issuance of a Zoning Clearance Certificate, Special Permit, or Use Permit, and the person engaged in such activity must obtain all required state licenses and permits.

55.4.3.10 Other than as enumerated in this Section, Commercial Cannabis Activities in the County of Humboldt are prohibited in any zoning district other than those zoning districts where it is expressly permitted.

55.4.3.11 The fact that an applicant possesses other types of state, county or city permits, licenses or other entitlements does not exempt the applicant from the requirement of obtaining a Zoning Clearance Certificate, Special Permit, or Use Permit from the County of Humboldt to engage in Commercial Cannabis Activities within the jurisdiction of the County.

55.4.3.12 No ministerial permit shall be granted for site development activities, including but not limited to grading or building permits, related to any Commercial Cannabis Activity in advance of issuance of the Zoning Clearance Certificate, Special Permit, or Use Permit required under this section.

55.4.3.13 Severability. If any provision of this Section, or the application thereof, is held invalid, that invalidity shall not affect any other provision or application of this Section that can be given effect without the invalid provisions or application; and to this end, the provisions or application of this Section are severable.

55.4.4 DEFINITIONS

“Area of Traditional Tribal Cultural Affiliation” means geographic areas of historic occupancy and traditional cultural use by local indigenous peoples (California Native American Tribes), as

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

shown on the latest mapping prepared by the Planning & Building Department, created from geographic information supplied by the Tribes of Humboldt County.

“Cannabis” or “marijuana” means all parts of the plant *Cannabis sativa Linnaeus*, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not, including the seeds thereof. “Cannabis” also means marijuana as defined by Section 11018 of the Health and Safety Code as enacted by Chapter 1407 of the Statutes of 1972. For the purpose of this section, “cannabis” does not mean “industrial hemp” as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

“Cannabis Cooperative Association” means an association formed or reorganized in accordance with Chapter 22, Division 10 of the Business and Professions Code commencing with Section 26220.

“Cannabis Research Garden” means a cannabis cultivation facility engaged in the research or development of cannabis, cannabis strains, or cultivars for the medicinal or adult use of cannabis but which does not produce product for commercial distribution, manufacture, dispensing, or sale.

“Cannabis Testing and Research Laboratories” means a facility, entity, or site that offers or performs tests of cannabis or cannabis products licensed by the State of California pursuant to Business and Professions Code section 26000, et. seq., and businesses and research institutions engaged in the research of cannabis, cannabis products, or devices used for the medicinal or adult use of cannabis products at which no commercial cannabis cultivation or distribution, manufacture, dispensing, or sale of medical cannabis occurs.

“Captured Rainfall” means catchment of rainfall runoff primarily collected during the wet season from roof tops, impervious surfaces, driveways, and similar features to the extent consistent with state law for rainwater capture, and concentrated and stored in tanks, or off-stream reservoirs, retention ponds, or basins located on the parcel(s) or premises. Also includes rainfall captured and collected directly within a reservoir, open tank, or similar vessel.

“Category 4 Roads” means roads meeting the standards specified in Section 4-1 (Design Standards for Roadway Categories) and Figure 4 of the Appendix to the Subdivision Regulations, found in Appendix to Title III, Division 2, of Humboldt County Code.

“Commercial Cannabis Activity” means any activity involving the cultivation, processing, distribution, manufacturing, testing, sale, or related activities, of cannabis for commercial purposes.

“Commercial Cannabis Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana or cannabis, including nurseries, that is intended to be processed, manufactured, distributed, dispensed, delivered, and sold.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

“Community Propagation Center” means a facility providing for propagation activities as well as caretaking of mature non-flowering plants by one or more licensees, using grid power, at a premises which is separate from the cultivation site.

“Cultivation Area” means the sum of the area(s) used for cannabis cultivation, calculated in square feet and measured using clearly identifiable boundaries around the perimeter of all area (s) that will contain plants at any point in time, including all the space within the boundary as shown on the approved plot plan. Cultivation area shall include the maximum anticipated extent of all vegetative growth of cannabis plants to be grown to maturity on the premises. Between January 1 and January 31 of any given year, applicants with approved permits for cannabis cultivation may submit a written declaration on forms provided by the County that they will reduce the size of their approved cultivation area for that year. The County shall assess taxes for cannabis cultivation on the site based on the reduced area of cultivation in the declaration. See also “Propagation”.

“Cultivation site” means the location or facility where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities, except where drying, curing, grading or trimming is otherwise prohibited.

“Distribution Facility” as used in this section related to cannabis means a facility where a person conducts the business of procuring cannabis from licensed cultivators or manufacturers for sale to licensed retailers, and performs or coordinates the inspection, quality assurance, batch testing, storage, labeling, packaging and other related processes, as well as transportation to or from other licensees.

“Driveway” means a route providing private vehicular access, serving one (1) or two (2) parcels or premises.

“Dry farming” means cultivation where Irrigation activities are confined to ancillary propagation areas and transplant, and plants spend the majority of the cultivation season being grown within native soil where they primarily receive water via subsurface hydrological connectivity, and not from above ground Irrigation.

“Enclosed” means Commercial Cannabis Cultivation Activities conducted within an enclosed structure employing mechanical ventilation controls in concert with carbon filtration or other equivalent or superior method(s) minimizing the odor of cannabis outside of the structure. The use and intensity of artificial light, not the fact of enclosure will determine whether the Cultivation Site is characterized as Outdoor, Mixed-light, or Indoor.

“Extraction” means a process by which cannabinoids are separated from cannabis plant material through chemical or physical means.

“Extraction, non-flammable” means the manufacture of cannabis products using cold water, heat press, lipid (butter, milk, oil) or other non-chemical extraction method make bubble hash, kief, rosin, cannabis-infused lipid, etc. Ethanol, alcohol, and CO2-based solvent extraction to make cannabis concentrates/oils are also included in this definition.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

“Extraction, flammable” means using compressed and uncompressed liquid solvents such as pentane, hexane, butane, propane, and the like to make cannabis concentrates/oil (closed loop only). Also included in this definition is post-extraction refinement, which is taking previously extracted cannabis concentrates and further refining through processes such as chromatography, to make distillates.

“Flowering” means that a cannabis plant has formed a mass of pistils measuring greater than one half inch wide at its widest point.

“Forbearance Period” means the calendar days during which water may not be diverted from a Waterbody. The default forbearance period shall occur each year between May 15th and October 31st, unless a greater or lesser period is established or negotiated by local and/or state agencies.

“Grid Power” means electricity generated, transmitted and distributed via the electrical grid by a public utility or similar entity.

“Indoor” means cultivation within a structure primarily or exclusively using artificial lighting.

“Infusion” means a process by which cannabis, cannabinoids, cannabis concentrates, or manufactured cannabis are directly incorporated into a product formulation (e.g. oil, milk, butter, other lipids) to produce a cannabis product including: edibles such as baked goods, tinctures, lotions and salves, soaps, vape pens, and the like.

“Irrigation” means use of water by any Commercial Cannabis Cultivation activity.

“Licensee” means a person issued a state license to engage in Commercial Cannabis Activity.

“Local Water Source” means water withdrawal from a Waterbody occurring on the same parcel(s) or premises, or in their vicinity.

“Manufacturing” means a process whereby the raw agricultural product is transformed into a concentrate, an edible product, or a topical product, and the production, preparation, propagation, or compounding of cannabis or cannabis products, directly or indirectly, by extraction methods, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

“Metering device” means a device capable of measuring the rate of: direct diversion, collection to storage, and withdrawal or release of water from storage.

“Microbusiness” means a facility host to several Commercial Cannabis Activities under a single license including cultivation on an area less than 10,000 square feet, distribution, manufacturing without use of volatile solvents, and retail sales.

“Mixed-Light” means cultivation using a combination of natural and supplemental artificial lighting.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

“Non-Diversionsary Water Source” means not involving the withdrawal of water from a Waterbody.

“Non-forested areas” means areas not growing any trees, whether due to natural conditions or through a conversion of Timberland, conducted prior to January 1, 2016.

“Nursery” means a facility that produces only clones, immature plants, and seeds for wholesale to licensed cultivators to be used specifically for the planting, propagation, and cultivation of cannabis, or to licensed distributors.

“Off-site Processing Facility” means the location or facility where cannabis is dried, cured, graded, trimmed, and/or packaged when conducted at premises separate from the cultivation site where the processed cannabis is grown and harvested.

“On-site Processing Facility” means the location or facility where cannabis is dried, cured, graded, trimmed, and/or packaged by or under the control of one or more licensed cultivators, when conducted at the same premises or Parcel which is host to the cultivation site(s) where the cannabis is grown and harvested.

“Open Air” means Outdoor or Mixed-Light Cultivation activities, Nurseries, or Processing facilities, where not conducted entirely within an Enclosed structure.

“Outdoor” means outdoor cultivation using no artificial lighting.

“Parcel” means the same as the definition of “Lot” found under 314-147 of the code.

“Person” means an individual, firm, partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit and includes the plural as well as the singular number. Person also includes the chief executive officer or a member of the board of directors of a business entity, or any individual participating in the direction, control, or management of the permit holder. Person does not include business entities with an aggregate ownership interest of less than twenty (20) percent in the individual or group holding the permit or less than 5 percent of the total shares of a publicly traded company holding a permit. Individuals, Banks, or financial institutions whose only interest constitutes a loan, lien, or encumbrance, or whose interest occurs through a mutual fund, blind trust, or similar instrument shall not be considered a “Person” for purposes of this section.

“Pre-Existing Cultivation Site” means a physical location where Outdoor, Mixed-Light, or Nursery Cannabis Cultivation activities occurred at any time between January 1, 2006 and December 31, 2015, which has been recognized by the Planning and Building Department, following receipt and review of adequate evidence. The maximum Cultivation Area that may be recognized is the largest extent of the area under concurrent cultivation at a single point in time during the ten-year period specified above.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

“Premises” means a Parcel, or a portion thereof, such as a leasehold interest in agricultural land for agricultural purposes of outdoor, mixed-light, or indoor cultivation or processing of cannabis, or a leased or owned space in an industrial or commercial building or parcel for purposes of indoor, mixed-light, or outdoor cultivation, processing, manufacture, distribution, testing or retail sale of cannabis.

“Prime Agricultural Soils” means all lands which have been classified or determined to be “prime” as shown on the most current mapping managed and prepared in concert with local soil survey efforts performed by the Natural Resources Conservation Service.

“Private Roads” means all roads which are not maintained by the County of Humboldt, or State or Federal Agencies.

“Propagation” means cultivation of immature, non-flowering cannabis plants. Areas used for Propagation which are incidental, accessory, and subordinate to Cultivation areas on the same Parcel or Premises may be excluded from the calculation of Cultivation area at the discretion of the Planning Director or Hearing Officer. See also “Cultivation Area”.

“Public or Private Water Supplier” means a retail water supplier, as defined in Section 13575 of the Water Code, including community service districts or similar public or private utilities, serving 11 or more customers, whose primary beneficial use of water is municipal or domestic.

“Public Park” means land that is publicly owned or controlled for the purpose of providing recreation and/or open space for public use and/or wildlife habitat.

“Publicly Maintained Roads” means all roads that are available for year-round travel by the general public and maintained by the County of Humboldt, or State or Federal Agencies.

“Renewable Energy Source” means electrical power provided by a renewable energy system and/or Grid Power, supplied from 100% renewable source.

“Renewable Energy System” means equipment for generating and supplying power without use of petroleum or other fossil fuels, and instead using appropriate technology including but not limited to: wind turbines, photovoltaic panels, and hydroelectric systems, in concert with private devices and systems for energy storage and distribution including batteries, grid inter-tie, or other means.

“Retailer” means a facility for the retail sale and delivery of cannabis to the public, whether for medicinal or adult use. Retailer shall include medical cannabis dispensaries, as defined in and regulated by Humboldt County Code section 314-55.3.

“Same Practical Effect” means an exception or alternative with the capability of providing equivalent access characteristics, including but not limited to: accommodating safe two-way travel and traffic by regular users in passenger vehicles, and access by emergency wildland fire equipment and simultaneous safe civilian evacuation in the event of a wildland fire.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

“Shared Use Roads” means public and private road systems providing access to the cultivation site, including driveways, serving 3 or more parcels or premises.

“Shared Use Road Systems (roadsheds)” means networks of public and/or private Shared Use Roads providing access to two or more parcels, where year-round access through neighboring road systems is typically limited to one or two discrete intersections. The County shall define the location and general extent of all roadsheds, based upon current conditions and use.

“Slope” means Natural Grade as defined in Title III, Section 314-142 of the Humboldt County Code, which has not been filled or graded after January 1, 2016.

“State license,” or “license,” means a state license issued pursuant to MAUCRSA.

“Stored water” means water from Captured Rainfall or a Local Water Source, when diverted and stored for non-contemporaneous Irrigation.

“Timberland” means land, which is growing or available for and capable of growing a crop of trees of any commercial species used to produce lumber and other forest products, as defined under section 4526 of the Public Resources Code.

“Tribal Cultural Resources” means sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe, including unique archaeological resources and historical resources as described under sections 21074, 21083.2(g), and 21084.1 of the Public Resources Code, respectively. Tribal Cultural Resource shall also include sites or resources identified by the tribe through an action of the Tribal Council or equivalent body.

“Tribal Ceremonial Sites” means locations where ceremonial activities are conducted by a California Native American Tribe within their Area of Traditional Tribal Cultural Affiliation.

“Tribal Lands” for the purposes of this section means land within the boundaries of a Reservation or Rancheria, land held in trust by the United States of America for a Tribe outside the boundaries of a Reservation or Rancheria, land owned by the Tribe associated with a Reservation or Rancheria or other land held in trust for that Tribe, fee parcels owned by members of the Tribe within a Reservation or Rancheria of that Tribe, and fee parcels located within the boundaries of a Reservation or Rancheria, owned by non-tribal members.

“Waterbody” means any significant accumulation of water, such as lakes, ponds, rivers, streams, creeks, springs, seeps, artesian wells, wetlands, canals, groundwater from a subterranean stream flowing through a known and definite channel, or similar features. Waterbody shall not include off-stream constructed reservoirs filled exclusively using Non-Diversionary sources such as Captured Rainfall.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

**55.4.5 GENERAL PROVISIONS APPLICABLE TO COMMERCIAL CANNABIS
ACTIVITY LAND USE PERMITS**

55.4.5.1 Special Area Provisions

- 55.4.5.1.1 No Commercial Cannabis Activity shall be permitted within six hundred feet (600') of a school.
- 55.4.5.1.2 No Commercial Cannabis Activity shall be permitted within Tribal Lands without the express written consent of the Tribe.
- 55.4.5.1.3 A Special Permit shall be required for any Commercial Cannabis Activity in a TPZ zoning district, when authorized pursuant to 55.4.6.5. (Pre-existing cultivation sites)
- 55.4.5.1.4 City Spheres of Influence, Community Planning Areas, Tribal Lands
 - a) A Conditional Use Permit shall be required for any Commercial Cannabis Activity where located within the Sphere of Influence (SOI) of any incorporated city or within any of the following mapped Community Planning Areas (CPA's): Blue Lake, Fieldbrook-Glendale, Fortuna, Hydesville-Carlotta, McKinleyville, Rio Dell-Scotia, Shelter Cove, Trinidad-Westhaven, and Willow Creek. A Conditional Use Permit shall also be required for any Commercial Cannabis Activity where located within one thousand feet (1,000') of any incorporated city, Tribal Lands, or any of the Community Planning Areas (CPA's) identified herein. For purposes of determining the Trinidad Planning Area, the Trinidad General Plan shall be utilized.

Early Notification to Surrounding Areas, nearby Cities, and Tribes

- b) Whenever a permit application for a Commercial Cannabis Activity is located within any of the areas specified in Sections 55.4.5.1.4(a) and has been determined complete for processing in accordance with Section 312-6.1, notice of the proposed project shall be provided to all property owners and occupants by first class mail to the address(es) shown on the latest Assessment Roll within one thousand feet (1,000') of the perimeter of the parcel on which a permit is being requested. The notice shall include the location of the project and a description of the size and type of activity proposed.

The appropriate City or Tribe shall also be notified in cases where a project is located within 1,000 feet of the City limit or boundary of Tribal Lands, or within the City's Sphere of Influence or Tribe's Ancestral Area. This notice shall be in addition to the notice that may be required by Section 312-8.1 or 312-8.3. Pursuant to 312-9.2.3, a written request that a public hearing be held may be submitted at any time prior to the Hearing Officer's administrative decision on a project.

- c) The Hearing Officer shall consider the potential impacts and cumulative impacts of proposed cannabis activities upon the community as a whole, including impacts to neighboring uses within Cities or their SOI's and buffers, and to residents within CPA's, or Tribal land. The Hearing Officer shall have the discretion to deny any discretionary permit application within these areas if it is found, based on substantial evidence in the record, that the impacts of a proposed activity on the existing uses will have a significant adverse effect on the public health, safety, or welfare.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

55.4.5.1.5 Areas of Traditional Tribal Cultural Affiliation

The County shall engage with local Tribes before consenting to the issuance of any clearance or permit, if Commercial Cannabis Activities occur or are proposed within an Area of Traditional Tribal Cultural Affiliation. This process will include referral of the project to and 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).

55.4.5.2 Release of Liability, Indemnification, and Hold Harmless

As part of the application for any Zoning Clearance Certificate, Special Permit, or Use Permit for Commercial Cannabis Activity, the property owner and permittee shall indemnify and hold harmless the County of Humboldt and its agents, officers, elected officials, and employees for any claims, damages, or injuries brought by affected property owners or other third parties due to the Commercial Cannabis Activity and for any claims brought by any person for problems, injuries, damages, or liabilities of any kind that may arise out of these uses.

55.4.5.3 Penalties and Enforcement

All of the remedies provided for in this Section shall be cumulative and not exclusive of remedies available for violations under any other Section of the County Code, or other law.

Any violation of this Section, including, but not limited to failure to obtain and maintain compliance with any required clearance certificate or permit specified in this Section, shall be, and the same hereby is declared to be, a public nuisance and unlawful and shall be subject to injunction, abatement or any other administrative, civil, or criminal remedy available to the County under the applicable state and county laws, specifically including those set forth in Title III, Division 5, Chapter 1 of the Humboldt County Code.

Whenever permit applicants seeking permits for new commercial activities initiate operations ahead of permit issuance or Pre-Existing Cultivation Site operators seeking permits expand cultivation operations ahead of permit issuance the Director shall have discretion to:

55.4.5.3.1 Issue stop work orders and financial penalties to applicants found to have engaged in the above activities, and require restoration of the site to prior condition; or,

55.4.5.3.2 Disqualify the pending applications, with no refund of fees submitted, and initiate enforcement proceedings.

55.4.5.3.3 Resolve the violations and proceed with processing of the application.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

55.4.5.4 Permit Limits and Permit Counting

55.4.5.4.1 No more than eight acres of Commercial Cannabis cultivation permits may be issued to a single Person. No more than ten (10) Persons shall be granted permits authorizing three (3) or more acres of cultivation pursuant to the provisions of 55.4.6.1.2(c).

55.4.5.5 Combination of Open Air Cultivation Activities

A combination of Outdoor and Mixed Light cultivation activities may be authorized for a total area equal to or less than the cultivated area size limit for the applicable clearance or permit being sought (e.g. a combination of outdoor and mixed light cultivation area of up to 5,000 sq. ft. may be permitted on a parcel of between 5 and 10 acres with a Zoning Clearance Certificate per Section 55.4.6.1.2.1[a]).

55.4.5.6 Term of Commercial Cannabis Activity Clearance or Permit

Any Commercial Cannabis Activity Zoning Clearance Certificate, Special Permit, or Use Permit issued pursuant to this section 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 permitted site has been found to comply with all conditions of approval, applicable eligibility and siting criteria, and performance standards.

55.4.5.7 Annual Inspections

If the inspector or other County official determines that the site does not comply with the conditions of approval, the inspector shall serve the clearance certificate 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 and the time period within which the non-compliance must be corrected. The statement shall also advise the clearance certificate or permit holder of their right to file an appeal of the non-compliance statement within ten (10) calendar days of the date that the written statement is delivered to the permit holder, or after the date of any re-inspection if there is a dispute about whether or not the corrections have been completed. Email, personal delivery, or mail are appropriate means of delivering the written statement. Where mailed or emailed, the written statement shall be sent to the most current mailing address or email shared with the Department by the operator. The statement shall be considered to be delivered 3 days following the postmarked date of mailing or verification of email transmittal. The permit holder may request a re-inspection to determine whether or not the permit holder has cured all issues of non-compliance. Failure to request re-inspection and cure any items of non-compliance within the prescribed timeframes, or to timely file an appeal, shall terminate the Zoning Clearance Certificate, Special Permit, or Use Permit, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed.

55.4.5.8 Appeal of Inspection Determination

Within ten (10) calendar days after delivery of the statement of non-compliance, or the date of any re-inspection, the determination by the inspector that the site is not in compliance may be appealed by certificate or permit holder to the Zoning Administrator. The appeal shall be

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

made, in writing, on a form provided by the County, and with payment of the fee specified for appeals in the fee schedule adopted by the County of Humboldt.

55.4.5.8.1 The appeal shall be heard by the Zoning Administrator or his or her designee within thirty (30) calendar days following the filing of the appeal. The Zoning Administrator shall render a written ruling on the appeal within three (3) business days following the hearing.

55.4.5.8.2 The decision of the Zoning Administrator may be appealed in accordance with Section 312-13 of the Humboldt County Code. If no appeal is filed, the Zoning Administrator's ruling is final.

55.4.5.9 Notification to State Licensing Authorities

The County shall notify the appropriate state licensing authority whenever the County Zoning Clearance Certificate, Special Permit or Use Permit has been revoked or terminated following the expiration of any appeal period, or if an appeal has been filed, following the final determination of the appeal.

55.4.5.10 Restriction of water use under special circumstance

The County reserves the right to reduce the extent of any Commercial Cannabis Activity, including but not limited to the area of cultivation, allowed 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 where the Commercial Cannabis Activity is located, will not support water withdrawals without substantially adversely affecting existing fish and wildlife resources.

55.4.6 COMMERCIAL CANNABIS CULTIVATION, PROPAGATION, AND PROCESSING – OPEN AIR ACTIVITIES

Outdoor and Mixed-light Cultivation Activities, On-Site Processing, and Nurseries shall be principally permitted with a Zoning Clearance Certificate when meeting the following Eligibility and Siting Criteria and all applicable Performance Standards, except when otherwise specified.

55.4.6.1 Eligibility Criteria - Resource Production and Residential Areas

55.4.6.1.1 Zoning

AE, AG, FR, and U when accompanied by a Resource Production General Plan land use designation (not including Timberland) or Residential land use designation requiring parcel sizes of more than 5 acres.

55.4.6.1.2 Minimum Parcel Size and allowed Cultivation Area

- a) Five (5) acre minimum parcel size, on parcels between 5 and 10 acres in size:
 - 1) up to 5,000 sq. ft. of Cultivation Area with a Zoning Clearance Certificate;
 - 2) up to 10,000 sq. ft. of Cultivation Area with a Special Permit.
- b) On parcels 10 acres or larger in size:
 - 1) up to 10,000 sq. ft. of Cultivation Area with a Zoning Clearance Certificate;
 - 2) up to 43,560 sq. ft. of Cultivation Area with a Special Permit.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

- c) On parcels 320 acres or larger in size, up to 43,560 sq. ft. of Cultivation Area per 100-acre increment can be permitted subject to approval of a Use Permit, up to a maximum of eight (8) acres can be permitted. All cultivation areas must have access from paved roads with centerline stripe, meeting the Category 4 standard. Exceptions may be considered subject to a separate Use Permit. Where an exception is sought, the Use Permit application shall include an evaluation (prepared by a licensed engineer) of the local road network providing access to the site. The Hearing Officer shall not grant an exception unless there is substantial evidence to support a finding that the cultivation sites will not adversely affect the public health, safety, and welfare because the roads as they exist or are improved provide fire safe road access, capacity to support anticipated traffic volumes, maintain water quality objectives, and protect sensitive habitats.

55.4.6.2 Eligibility Criteria - Commercial and Industrial Areas

55.4.6.2.1 Zoning

C-3, ML, MH, and U when accompanied by a Commercial or Industrial General Plan land use designation, or where previously developed for a lawful industrial or commercial use.

55.4.6.2.2 Minimum Parcel Size and allowed Cultivation Area

Two (2) acre minimum parcel size

- a) Open Air Cultivation Activities of up to one (1) acre of Cultivation Area may be permitted with a Zoning Clearance Certificate
- b) Additional Open Air Cultivation Activities in excess of 1 acre may be allowed with a Use Permit.

Cultivation sites proposed on developed commercial or industrial properties must comply with the Performance Standards for Adaptive Reuse.

55.4.6.3 Eligibility Criteria – All Areas

55.4.6.3.1 Energy Source

Electricity must be exclusively provided by a Renewable Energy Source, meeting the Performance Standard for Energy Use.

55.4.6.3.2 Water Source

Irrigation shall exclusively utilize Stored Water from Non-Diversiónary Sources or water from a Public or Private Water Supplier. Water from on-site greywater systems is also authorized for year-round use. Dry Farmed Outdoor or Mixed Light cultivation sites may utilize Irrigation from Diversiónary Sources for propagation areas and transplantation. Irrigation water sourced from Diversiónary Sources may be permitted with a Special Permit pursuant to the Streamside Management Area Ordinance, Humboldt County Code Section 314-61.1., and subject to the Performance Standards for Diversiónary Water Use.

55.4.6.3.3 Access Road(s)

Road systems providing access to the parcel(s) or premises hosting the Cultivation Site(s) must meet or exceed the Road Systems Performance Standard in Section 55.4.12.1.8.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

55.4.6.4 Siting Criteria – All Areas

55.4.6.4.1 Slope

Cultivation Site(s) must be confined to areas of the Parcel where the Slope is 15 percent or less.

55.4.6.4.2 Conversion of Timberland Prohibited

Cultivation Site(s) may only be located within a Non-Forested area that was in existence prior to January 1, 2016.

55.4.6.4.3 Limitation on Use of Prime Soils

The cumulative area of any Cannabis Cultivation Site(s) located in areas identified as having Prime Agricultural Soil shall not exceed 20 percent of the area of Prime Agricultural Soil on the Parcel. Where occurring in areas with Prime Agricultural Soil, Cultivation shall only occur within the native soil. Removal of native soil and replacement with manufactured soil is prohibited. Exceptions to the in native soil planting requirement may be considered with a Use Permit. Where an exception is sought, the Use Permit application shall include evidence demonstrating that in the circumstances of the particular cultivation site, it is better to not plant within the native soils. An exception shall only be approved if it can be demonstrated that the native soil will not be impaired or damaged.

55.4.6.4.4 Setbacks

Standard Setbacks

Cultivation Site(s) must observe all of the following setbacks:

- a) Property Lines - Thirty (30') feet from any property line;
- b) Residences and undeveloped parcels - Three hundred feet (300') from any residence on an adjacent separately owned parcel, and two hundred seventy feet (270') from any adjacent undeveloped separately owned parcel.
- c) Sensitive Receptors - Six hundred feet (600') from a Church or other Place of Religious Worship, Public Park, Tribal Cultural Resource, or School Bus Stop currently in use at the time of project application submittal. For purposes of this section, the setback requirement applicable to Public Parks, other than lands managed for open space and/or wildlife habitat, shall only be applied to designated and developed recreational facilities such as picnic areas and campgrounds, trails, river and fishing access points, and like facilities under public ownership.
- d) Tribal Ceremonial Sites - One thousand feet (1,000') from all Tribal Ceremonial Sites;
- e) The setback required from associated property lines or residence(s) on an adjacent privately-owned property may be waived or reduced with the express written consent of the owner(s) of the subject property.
- f) Notwithstanding the above described setbacks from Sensitive Receptors and Tribal Ceremonial Sites, the setback required from these areas may also be waived or reduced with the express written consent of qualified officials or representatives representing these protected uses. For publicly owned lands managed for open space and/or wildlife habitat purposes, a setback of less than 600 feet may be allowed with a Special Permit,

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

provided that advance notice is given to the person or agency responsible for managing or supervising the management of those lands. For School Bus Stops, a setback of less than 600 feet may be allowed with a Special Permit, where it can be demonstrated that the cultivation site would not be detrimental to students at the bus stop, due to specific conditions;

- g) In all cases, structures must comply with the setback requirements and similar provisions of the principal zoning district(s) as well as those required by the Building Code, including lot coverage.
- h) Additionally, in cases where one or more discrete premises span multiple parcels, the 30-foot setback from shared boundary lines may be waived for cultivation activities which do not occur within a structure.
- i) Cultivation Site(s) and Appurtenant Facilities including surface water diversions, agricultural wells, and similar infrastructure must observe all prescribed setbacks and limitations pertaining to the use of land located within or affecting Streamside Management Areas (SMAs) or other wet areas, as identified and described under Section 314-61.1. Under certain circumstances, a Special Permit may be required.

Special Area Setbacks for Odor Mitigation

In addition to the Standard Setbacks, Open Air Cultivation Sites located within any of the Special Areas described under 55.4.5.1.4 are subject to the following enhanced setbacks, unless confined within Enclosed structures:

- (j) Six hundred feet (600') from the boundary of any residentially zoned area;
- (k) Six hundred feet (600') from any residence located on a separately owned parcel.
- (l) An applicant may seek an exception from the prescribed open air cultivation setbacks of 55.4.6.4(j) and (k) with a Use Permit. In considering the Use Permit, the Planning Commission shall evaluate whether a reduced setback would result in adverse impacts to surrounding land uses, as well as whether project alternatives or opportunities for additional feasible mitigation exist.
- (m) Notwithstanding the above provisions, the enhanced setbacks of this section are not applicable to any commercial cannabis activities conducted on a parcel zoned MH or lands planned for General Industrial uses (IG).

55.4.6.5 Accommodations for Pre-Existing Cultivation Sites

As set forth in the following subsections, Pre-Existing Cultivation Sites that meet all other Eligibility and Siting Criteria and Performance Standards, may be permitted within AE, AG, RA, FR, FP, TPZ, and U zoning districts, where accompanied by a Resource Production General Plan land use designation or Residential land use designation requiring parcel sizes of more than 5 acres. Expansion of Pre-Existing Cultivation Sites is prohibited where located within TPZ zones or U zones where the General Plan land use designation is "Timberland". For other areas, where the size of a Pre-Existing Cultivation Site is smaller than the allowed cultivation area which can be permitted, the site may be expanded to the maximum allowed for the applicable parcel size and permit type within existing Non-Forested areas with Slopes of 15 percent or less.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

Permit applications for Pre-Existing Cultivation Sites shall provide dated satellite imagery or other evidence satisfactory to the Planning and Building Department establishing the existence and area of cultivation between January 1, 2006 and December 31, 2015.

Applications for Pre-Existing Cultivation Sites submitted before December 31, 2018 may be permitted at one hundred percent of the documented pre-existing cultivation area and applications for pre-existing cultivation submitted between January 1, 2019 and December 31, 2019 shall not be approved for more than fifty percent of the documented existing cultivation area. No new applications for Pre-Existing Cultivation Sites shall be accepted after December 31, 2019.

55.4.6.5.1 Small Cultivation Sites

On Parcels 5 acres or larger in size, up to 3,000 square feet of Outdoor or Mixed-Light Cultivation, or any combination thereof, may be permitted with a Zoning Clearance Certificate, subject to the following additional requirements and allowances:

- a) The operator's principal residence is located on the same parcel and the residence was in existence before January 1, 2016
- b) Not more than one cultivation permit may be issued for the same Parcel.
- c) The Road Systems Performance Standards in Sections 55.4.12.1.8(a) shall not apply
- d) The Road Systems Performance Standards in Sections 55.4.12.1.8(c) and (d) shall apply as follows:
 - i. Within one year of provisional permit approval, permittees of small cultivation sites are responsible to join or form a Road Maintenance Association pursuant to 55.4.12.1.8(d)1, and submit a report prepared pursuant 55.4.12.1.8(c)2, unless one has already been submitted for other commercial cannabis activity sites within the roadshed.
 - ii. Improvements must be implemented within 2 years of approval of the provisional permit. The timeframe for completing improvements may be extended for cause by the Director of Planning and Building.
- e) The existing area of cultivation may be located on Slopes greater than 15 percent, but less than 30 percent with a Zoning Clearance Certificate.

55.4.6.5.2 On an AE zoned parcel less than one acre in size, up to 2,500 square feet of Cultivation Area may be permitted with a Special Permit.

55.4.6.5.3 On parcels between one acre and five acres in size, up to 3,000 square feet of Cultivation Area may be permitted with a Special Permit.

55.4.6.5.4 A Cultivation Site located on Slopes greater than 15 percent but not exceeding 30 percent may be permitted with a Special Permit.

55.4.6.5.5 In order to comply or best achieve compliance with applicable eligibility or siting criteria, or performance standard(s), reconfiguration of a Pre-Existing Cultivation Site may be authorized with a Special Permit, subject to all applicable Performance Standards.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

55.4.6.5.6 Energy Source for Ancillary Propagation Facility or Mixed-Light Cultivation

In TPZ zones and U zones (with a Land Use Designation of Timberland) the use of generators and Mixed-Light cultivation is prohibited. Where grid power is not available, Pre-Existing cultivation sites located within other eligible zoning districts may utilize on-site generators to supply energy for mixed light and propagation activities. The permit application shall include an energy budget detailing all monthly cultivation-related energy use as well as on-site renewable energy generation and storage capacity. All generator use must comply with the Performance Standards for Generator Noise.

- a) Use of on-site generators to supply up to 20 percent of cannabis cultivation related energy demand may occur as a principally permitted use.
- b) Use of on-site generators to supply greater than 20 percent of cannabis cultivation related energy demand shall be subject to a Special Permit. The application must demonstrate why it is not technically or financially feasible to secure grid power or comply with the renewable energy standard. Approval may be subject to any and all of the following additional measures:
 1. Keeping of ancillary mother plants off-site at an approved location such as a Community Propagation Center, Nursery, or similar facility with access to grid power.
 2. Restricting use of artificial lighting to between March thru August (deprivation season and end of season restocking post-harvest)
 3. Developing a plan to secure grid power or develop on-site renewable energy infrastructure capable of supplying 80 percent or more of cannabis-related electrical demand. Permit approval may be provisional subject to achieving grid power or 80 percent renewable target.

55.4.6.5.7 Provisional Permitting

An application for a Pre-Existing Cultivation Site may be provisionally approved, subject to a written approved compliance agreement, signed by the applicant and the relevant enforcement agency or agencies. Applications eligible for Provisional Approval shall be processed identically to all other applications, in the order they are received and determined complete for processing. The Compliance Agreement shall document all violations and non-compliance with applicable building or other health, safety, or other state or county statute, ordinance, or regulation, including the performance standards and siting criteria of these regulations. Violations and areas of non-compliance subject to a compliance agreement shall be related to land conversion, on-site grading, electricity usage, water usage, agricultural discharges, and similar matters and limited to those improvements, facilities, buildings, and sites that are used for the Commercial Cannabis Activity and shall not extend to personal residences or other structures that are not used for Commercial Cannabis Activities. Applicants shall provide plans for curing such violations to the Planning & Building Department within one (1) year of issuance of the provisional clearance or permit. All violations and areas of non-compliance shall be cured or abated at the earliest feasible date, but in no event no more than two (2) years after the date of issuance of a provisional clearance or permit, unless otherwise stipulated under the terms of

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

the individual agreement. The terms of the compliance agreement may be appealed to the Planning Commission, who shall then act as Hearing Officer.

As part of application submittal, Pre-Existing Cultivation Sites seeking provisional approval shall identify, document, and itemize all current violations related to commercial cannabis activities, as well as areas of non-compliance with applicable performance standards and siting criteria, and include a plan and schedule to abate or cure all violations and achieve compliance targets.

55.4.6.5.8 Myers Flat Community Area

In the Myers Flat Community Area, on any sized parcel, the cultivation area of a Pre-Existing Site may be permitted with a Special Permit, up to a maximum of 3,000 square feet. Expansion is prohibited on parcels less than 1 acre in size. The cultivation area setback requirement specified in Section 55.4.6.4.4(a) shall be reduced to the setbacks applicable to the underlying principal zoning district. The cultivation area setback from residence requirement specified in Section 55.4.6.4.4 (b) shall only apply to permanent residences constructed with approved building permits. Temporary use of an RV for up to 6 months may be permitted in conjunction with cannabis cultivation if permitted pursuant to 314-81.1.1.5.1.

55.4.6.5.9 Retirement, Remediation, and Relocation of Pre-Existing Cultivation Sites

In order to incentivize, promote, and encourage the retirement, remediation and relocation of pre-existing cannabis cultivation operations occurring in inappropriate, marginal, or environmentally sensitive sites to relocate to environmentally superior sites, the following provisions shall apply:

- a) Cultivation Sites eligible for Retirement, Remediation, and Relocation incentives (RRR Sites) shall be those that were in operation at any time between January 1, 2006 and January 1, 2016 and are located in TPZ, RA, U, AG, FR or AE zones with a source of irrigation water from surface water diversion without DWR water right or permit or DFW streambed alteration permit, or served by roads which do not conform with one or more access performance standards specified under Section 55.4.12, or with slopes in excess of 15%, or where the cultivation area location does not comply with the required setbacks. All applications for RRR sites on Tribal Land shall be referred to the appropriate Tribe for comment prior to approval.
- b) Sites eligible for relocation of RRR Sites (Relocation Sites) shall be those meeting the eligibility criteria specified in Section 55.4.6.1 or 55.4.6.2 and the siting criteria specified in Section 55.4.6.4 through 55.4.6.8, as well as all applicable performance standards specified in Section 55.4.12. In addition, RRR Sites shall not be located within any Special Areas listed within section 55.4.5.1.4. Applications for RRR Sites shall not be accepted after December 31, 2018.
- c) Operators of RRR Sites shall be eligible to receive a Zoning Clearance Certificate for commercial cultivation of cannabis on an eligible Relocation Site, for an area up to four times the area of the pre-existing RRR Site, but in no event larger 20,000 sq. ft. Operators of RRR Sites with a Cultivation Area exceeding 20,000 sq. ft. may transfer all recognized

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

prior cultivation area to an eligible Relocation Site, on a 1-for-1 basis (no multiplier) subject to approval of a Special Permit.

- d) Relocation Sites may be on leased premises for agricultural purposes allowable pursuant to the exclusion from the Subdivision Map Act, Government Code section 66412 (k). More than one RRR Site Zoning Clearance Certificate may be granted on Relocation Site parcels of ten (10) acres or larger, provided that the cumulative total cultivation area for all commercial cannabis cultivation Zoning Clearance Certificates issued for that parcel does not exceed twenty percent (20%) of the area of the Relocation Site parcel. If the Relocation Site has Prime Agricultural Soils on that parcel, the area utilized for cannabis cultivation on Prime Agricultural Soils shall not exceed twenty percent (20%) of the area of Prime Agricultural Soils on that parcel.
- e) In order to receive the benefits specified in Section 55.4.6.5.9 (c), the operator of a RRR Site shall prepare a plan for the full environmental remediation of the RRR Site, including removal of all cultivation related materials, equipment and improvements, regrading to preexisting contours, reseeding with native vegetation, reforestation, habitat restoration, and monitoring, as determined to be appropriate by the Planning Department. The plan shall be prepared and executed in accordance with the Performance Standard for Remediation Activities. The operator shall execute an agreement to complete the work specified in the remediation plan within twelve (12) months and shall post a bond in a sufficient amount that will allow the County to contract to complete the work specified in the plan in the event that the operator of the RRR Site fails to do so. The operator or the property owner of record for the RRR Site shall record a covenant executed by the property owner not to commercially cultivate cannabis or disturb the remediation area on the subject property in perpetuity, with an enforcement clause that in the event that the covenant is violated, the County of Humboldt, shall on motion in Superior Court, be entitled to an immediate lien on the property in the amount necessary to remediate the property, but in no event less than the sum of \$50,000.00. In the event that that the covenant is violated and the operator of the RRR Site retains any interest in the former RRR Site property, all permits for operation of the Relocation Site shall be terminated.

55.4.6.6 Site Restoration upon Termination or Abandonment of Commercial Cannabis Cultivation Sites

Upon termination or abandonment of a permitted Commercial Cannabis Cultivation Site, the operator and/or property owner shall remove all materials, equipment and improvements on the site that were devoted to cannabis activities, including but not limited to bags, pots or other containers, tools, fertilizers, pesticides, fuels, hoop house frames and coverings, irrigation pipes, water bladders or tanks, pond liners, electrical lighting fixtures, wiring and related equipment, fencing, cannabis and cannabis waste products, imported soil and soil amendments not incorporated into native soil, generators, pumps, and structures not associated with non-cannabis permitted use of the site. If any of the above described or related material or equipment is to remain, the operator and/or property owner shall prepare a plan and description of the non-cannabis continued use of such material or equipment on the site.

For cultivation sites located in forested resource lands where trees were removed in order to facilitate cannabis cultivation, and no 3-acre conversion exemption or timberland conversion permit was obtained, the property owner shall cause a restoration plan to be prepared by a

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

Registered Professional Forester, or other qualified professional approved by the County, for the reforestation of the site. All restoration planning and implementation shall be conducted in conformance with the Performance Standard for Remediation Activities. The property owner shall be responsible for execution of the restoration plan, subject to monitoring and periodic inspection by the County. Failure to adequately execute the plan shall be subject to the enforcement provisions set forth in Section 314-55.4.5.3 and Title III, Division 5, Chapter 1 of the Humboldt County Code.

55.4.6.7 Zoning Clearance Certificates for Open Air Cultivation submitted under prior ordinance –Provisions for Neighborhood Compatibility

Where located in or within one thousand feet (1000') of any incorporated city, Sphere of Influence (SOI) of any incorporated city, Tribal Lands, or within any of the following mapped Community Planning Areas: Blue Lake, Fieldbrook-Glendale, Fortuna, Hydesville-Carlotta, McKinleyville, Rio Dell-Scotia, Shelter Cove, Trinidad-Westhaven, and Willow Creek, Zoning Clearance Certificate applications submitted prior to January 1, 2016 shall be subject to compliance with the following provisions, which are designed to ensure compatibility with surrounding land uses and control of potential nuisance, and are hereby retroactively applicable. For purposes of determining the Trinidad Planning Area, the City of Trinidad General Plan shall be utilized.

55.4.6.7.1 Where there is no public controversy associated with an application, within three months of effective date of this ordinance, the applicant may request the pending permit application or approved permit be considered or reconsidered as a Special Permit. If following appropriate public notice, there is no opposition to the Special Permit, the permit may be approved. In situations where there is public controversy, applicants and operators must choose to comply with one of the following options.

- a) Demonstrate all areas of open air cultivation activities maintain setbacks of 600 feet or greater from any residence(s) located on a separately owned parcel, and are located 600 feet or greater from any residentially zoned area or applicable Community Planning Area boundary.
- b) Confine all open-air cultivation activities to Enclosed structures.
- c) Secure a Conditional Use Permit. In considering the Use Permit request, the Planning Commission shall evaluate whether a reduced setback would result in adverse impacts to surrounding land uses, as well as whether project alternatives or opportunities for additional feasible mitigation exist.
- d) Request permit cancellation. Permit holders shall be eligible for relocation incentives pursuant to the provisions 55.4.6.5.9 and may be required to perform remediation of the site, where necessary.

55.4.6.7.2 Within ten (10) working days of these provisions becoming effective, the Department will provide written notice to all applicants and permit holders of sites subject to these provisions. The notice will include a 90-day deadline for applicants and permit holders to provide a written decision to the Planning and Building Department declaring which option has been chosen to achieve compliance with this section. Failure to provide a

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

timely response is a violation of the ordinance and shall be grounds for permit cancellation, penalties and enforcement pursuant to 55.4.5.3.

55.4.6.7.3 Permittees must obtain approval of all plans within eighteen (18) months of receiving written notice pursuant to 55.4.6.7.2, and must complete all work within thirty-six (36) months of the effective date of these provisions.

55.4.6.8 Cap on Permits

The total number of permits issued for commercial cultivation activities (including Outdoor, Indoor, and Mixed-Light cultivation and Nurseries) shall be equally distributed among each of the twelve (12) discrete planning watersheds of Humboldt County as directed by the Board of Supervisors by Resolution.

Once the permit cap for a given watershed has been reached, no additional permit applications for open air cultivation activities will be processed until the Planning Commission and Board of Supervisors consider an analysis of the state of the watershed and approves an increase in the cap. The analysis shall include review of water flow data and applicable studies or information prepared by state and local agencies and recommendations from the following state agencies: California Department of Fish & Wildlife, North Coast Regional Water Quality Control Board, State Water Resources Control Board, and the Department of Forestry and Fire Protection.

55.4.7 CANNABIS SUPPORT FACILITIES

Cannabis Support Facilities include facilities for Distribution, Off-Site Processing, Enclosed Nurseries, Community Propagation Centers and Cannabis Testing and Research Laboratories. All Cannabis Support Facilities must meet or exceed the setbacks from Sensitive Receptors and Tribal Ceremonial Sites specified under 55.4.6.4.4(c) and (d), unless waived or reduced pursuant to 55.4.6.4.4(f). Where conducted within an Enclosed setting, Cannabis Support Facilities shall not be subject to the setbacks from School Bus Stops prescribed within 55.4.6.4.4(c).

55.4.7.1 Distribution, Off-Site Processing, Enclosed Nurseries, and Community Propagation Centers

Within all zones specified in Sections 55.4.6.1.1 (AE, AG, FR, and U) and 55.4.6.2.1 (C-3, ML, MH, and U), as well as C-2 and MB zones, Distribution, Off-Site Processing, Enclosed Nurseries, Community Propagation Centers shall be principally permitted with a Zoning Clearance Certificate when meeting all applicable Performance Standards, as well as the Eligibility Criteria in Sections 55.4.6.3.1 and 55.4.6.3.2 and the Siting Criteria specified in Sections 55.4.6.4.1, 55.4.6.4.2, and 55.4.6.4.3. Cannabis Support Facilities may also be permitted in CH and MB zones with a Special Permit, where meeting all applicable Performance Standards, as well as the Eligibility Criteria in Sections 55.4.6.3.1 and 55.4.6.3.2 and the Siting Criteria specified in Sections 55.4.6.4.1, 55.4.6.4.2, and 55.4.6.4.3.

55.4.7.2 Cannabis Testing and Research Laboratories

Cannabis Testing and Research Laboratories shall be principally permitted with a Zoning Clearance Certificate in C-2, C-3, MB, ML, MH zones, or U (when accompanied by a Commercial or Industrial General Plan land use designation) or where previously developed for a lawful industrial or commercial use subject to meeting all applicable Performance

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

Standards, the Eligibility Criteria in Sections 55.4.6.3.1 and 55.4.6.3.2 and the Siting Criteria specified in Sections 55.4.6.4.1, 55.4.6.4.2, and 55.4.6.4.3.

55.4.7.3 Locational Criteria

Cannabis Support Facilities shall be located on roads that are paved with centerline stripe, or paved meeting the Category 4 standard. Exceptions may be considered with a Use Permit. Where an exception is sought, the Use Permit application shall include an evaluation of the local road network and relevant segments prepared by a licensed engineer. The engineers report shall include substantial evidence to support a finding that standards for the protection of public health and safety, including fire safe road access, capacity to support anticipated traffic volumes, water quality objectives, and protection of habitat can be met.

55.4.8

55.4.8.1 INDOOR CULTIVATION

Indoor Cultivation Sites must comply with all applicable performance standards, meet the Eligibility Criteria specified in Section 55.4.6.3.1 and 55.4.6.3.2 and comply with the Siting Criteria specified in Sections 55.4.6.4.1, 55.4.6.4.2, 55.4.6.4.3, and 55.4.6.4.4 (c), (d), and (g). All Indoor Cultivation activities shall be conducted within an Enclosed setting and shall not be subject to the setbacks from School Bus Stops prescribed within 55.4.6.4.4(c). Indoor Cultivation may be permitted as follows:

55.4.8.1.1 Within those zones specified under 55.4.6.1.1 (AE, AG, FR, and U), up to 5,000 square feet of Indoor Cultivation may be permitted with a Zoning Clearance Certificate, but may only be conducted within a non-residential structure which was in existence prior to January 1, 2016. On parcels 320 acres or larger in size, with a Special Permit, up to 10,000 square feet of Indoor Cultivation may be permitted within a new or existing commercial structure, where the building is also approved and utilized for Cannabis Support Facilities. All properties must meet the locational criteria of 55.4.8.1.3 (no exceptions permitted) and the structure must be sited and designed to minimize the fragmentation of useable agricultural land on the parcel. The cultivation area of the Indoor facility shall be included in the calculation of total cultivation area of the parcel, where determining conformance with the (parcel size-specific) cultivation acreage limits of 55.4.6.1.2(c).

55.4.8.1.2 Within those zones specified under 55.4.6.2.1 (C-3, ML, MH, and U) and C-2 as part of a microbusiness provided all cannabis activities occur within a building that is two-stories or less in height, cultivation area is limited to 2,500 square feet, and where the cultivation and cannabis activities are in scale with the surrounding community,

- a) up to 5,000 square feet of cultivation area may be permitted with a Zoning Clearance Certificate.
- b) up to 10,000 square feet of cultivation area may be permitted with a Special Permit.
- c) A Use Permit shall be required where more than one clearance or permit is being sought on a Parcel.

55.4.8.1.3 Locational Criteria

Indoor Cultivation shall be located on roads that are paved with centerline stripe, or paved meeting the Category 4 standard. Exceptions may be considered with a Use Permit. Where

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

an exception is sought, the Use Permit application shall include an evaluation of the local road network and relevant segments prepared by a licensed engineer. The engineers report shall include substantial evidence to support a finding that measures have been taken to protect the public health and safety, including fire safe road access, capacity to support anticipated traffic volumes, water quality objectives, and sensitive habitat.

55.4.8.2 MANUFACTURING

Manufacturing Sites must comply with all applicable performance standards, as well as meet the Eligibility Criteria specified in Section 55.4.6.3.1 and 55.4.6.3.2 as well as comply with the Siting Criteria specified in Sections 55.4.6.4.1, 55.4.6.4.2, 55.4.6.4.3, and 55.4.6.4.4 (c), (d) and (g). All Manufacturing activities shall be conducted within an Enclosed setting and shall not be subject to the setbacks from School Bus Stops prescribed for Open Air Cultivation Activities within 55.4.6.4.4(c), except where otherwise specified. Manufacturing activities may then be permitted as follows:

55.4.8.2.1 Flammable Extraction

- a) Manufacturing activities involving Flammable Extraction may be permitted with a Special Permit in the MH zone, as well as the U zoning district, when accompanied by the Industrial General (IG) land use designation.
- b) Manufacturing activities involving Flammable Extraction may also be permitted with a Conditional Use Permit in the C-3 and ML zones, as well as the U zoning district, where previously developed with a lawful heavy industrial use.
- c) Manufacturing activities involving Flammable Extraction may also be permitted with a Conditional Use Permit within those zones specified under 55.4.6.1.1 (AE, AG, FR, and U), on properties meeting the locational criteria of 55.4.8.2.3(c) (no exceptions permitted) where conducted within the footprint of a non-residential structure that was in existence prior to January 1, 2016. On parcels 320 acres or larger in size or on parcels with a minimum of 40 acres where an Agricultural Cooperative Association is the applicant, Flammable Extraction may also be permitted within a new commercial structure. The structure must be sited and designed to minimize the fragmentation of useable agricultural land on the parcel.
- d) All manufacturing activities involving Flammable Extraction must be conducted within a commercial structure. Where located within those zones specified under 55.4.8.2.1(b) and (c), the structure must meet or exceed the following special setbacks:
 - i) One thousand feet (1,000') from the boundary of any residentially zoned area or Community Planning Area boundary specified within section 55.4.5.1
 - ii) One thousand feet (1,000') from any residence located on a separately owned parcel.
 - iii) Six hundred feet (600') from any school bus stop currently in use at the time of project review.
 - iv) An applicant may seek an exception from the special setbacks of this section with a Use Permit. Consideration of the Use Permit request shall include an evaluation of the density and location of neighboring residential uses, as well as the composition and location of other nearby development and terrain. Authorization of a reduced

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

setback shall include a determination that the proposed area and method of operation include sufficient measures to ensure the public health, safety and welfare of and that the use will not have a detrimental effect on the surrounding community.

55.4.8.2.2 Non-Flammable Extraction

- a) Manufacturing activities involving Non-Flammable Extraction may be principally permitted subject to issuance of a Zoning Clearance Certificate within the C-3, ML, and MH zones, as well as the U zoning district, when accompanied by an Industrial land use designation.
- b) Manufacturing activities involving Non-Flammable Extraction may also be permitted with a Special Permit within CH, C-2, C-3, MB, ML, and MH zones, as well as the U zoning district, when accompanied by a Commercial or Industrial land use designation, or where previously developed for a lawful industrial or commercial use.
- c) Manufacturing activities involving Non-Flammable Extraction may be permitted with a Special Permit within those zones specified under 55.4.6.1.1 (AE, AG, FR, and U).

55.4.8.2.3 Infusion

- a) Manufacturing activities involving Infusion may be principally permitted subject to issuance of a Zoning Clearance Certificate within the CH, C-2, C-3, MB, ML, and MH zones, as well as the U zoning district, when accompanied by a Commercial or Industrial land use designation, or where previously developed for a lawful industrial or commercial use.
- b) Manufacturing activities which exclusively involve Infusion may be principally permitted in all zones which permit Cottage Industry activities, when in compliance with all performance standards found within 45.1.3, or with a Special Permit pursuant to 45.1.4.
- c) *Locational Criteria*

Manufacturing activities shall be located on roads that are paved with centerline stripe, or paved meeting the Category 4 standard. Exceptions may be considered with a Use Permit. Where an exception is sought, the Use Permit application shall include an evaluation of the local road network and relevant segments prepared by a licensed engineer. The engineer's report shall include substantial evidence to support a finding that standards for the protection of public health and safety, including fire safe road access, capacity to support anticipated traffic volumes, water quality objectives, and protection of habitat can be met.

55.4.9 ADAPTIVE REUSE OF INDUSTRIAL SITES

On Parcels 2 acres or larger in size, within existing structures previously developed for a lawful heavy industrial operation, occupancy of up to one acre of gross floor area may be permitted for use by Commercial Cannabis activities including: Indoor Cultivation, Manufacturing, and Cannabis Support Facilities. A Zoning Clearance Certificate will be required for each discrete lease area. Where permitted occupancy and use of the site has reached one acre, a Use Permit will be required to consider any further use of the site by Commercial Cannabis Activities.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

55.4.10 OTHER PROVISIONS

55.4.10.1 Adult Use Retail Sales. Adult Use Retail Sales facilities are a permitted use, subject to the same permit requirements that apply pursuant to Humboldt County Code Sections 314-55.3, et seq. applicable to Medical Cannabis Dispensaries. All regulations applicable to permitting of Medical Cannabis Dispensaries shall be applicable to Adult Use Retail Sales facilities, except those limiting sales exclusively to medical cannabis.

55.4.10.2 Farm-Based Retail Sales. In addition to the zones in which cannabis retail facilities may be permitted pursuant to Humboldt County Code Section 314-55.3, et seq. applicable to Medical Cannabis Dispensaries, retail sales of cannabis products limited to those produced on the same Parcel(s) or Premises where the cannabis was cultivated, may occur as follows, provided that the cultivator also obtains a state cannabis retail sale license, if necessary. Sales of any cannabis products not cultivated on the same parcel is prohibited, unless pursuant to a + license. Sites hosting on-site customer traffic may be permitted with a Conditional Use Permit. Sites without on-site customer traffic, where all goods are provided to customers through delivery, off-site pickup, or similar means to the extent authorized by law, may be permitted with a Zoning Clearance Certificate. Farm-based retail sales are not permitted on any parcel zoned TPZ, or a parcel zoned U with an underlying land use designation of "Timberland".

55.4.10.3 Microbusiness. Microbusiness activities are a permitted use, subject to a Special Permit, in any of the zones in which authorized cannabis activities is a permitted use (except on parcels zoned FP or TPZ).

Locational Criteria

Adult Use Retail Sales, Farm Based Retail Sales with on-site customer traffic, and Microbusinesses with on-site customer traffic shall be located on roads that are paved with centerline stripe, or paved meeting the Category 4 standard. Exceptions may be considered with a Use Permit. Where an exception is sought, the Use Permit application shall include an evaluation of the local road network and relevant segments prepared by a licensed engineer. The engineers report shall include substantial evidence to support a finding that standards for the protection of public health and safety, including fire safe road access, capacity to support anticipated traffic volumes, water quality objectives, and protection of habitat can be met. Sites for microbusinesses that involve visitor-serving uses must also comply with the Public Accommodation Standard. Microbusinesses shall also comply with all performance standards applicable to any of the uses combined under a single Microbusiness license.

55.4.10.4 Temporary Special Events Temporary Special Events authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older may be permitted at any facility or location over which the County has jurisdiction. Events are a Temporary Use subject to a Use Permit as required by Humboldt County Code Section 314-62.1, which governs Special Events and Attractions. This includes events at a county fair, subject to consent of the Humboldt County Fair Association Board of Directors and City of Ferndale. Any event must be managed to ensure that (1) all cannabis vendor participants are licensed; (2) cannabis consumption is not visible from any public place or area open to persons under 21

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

years of age; and, (3) sale or consumption of alcohol or tobacco is not allowed within areas where cannabis consumption is authorized.

55.4.10.5 Onsite Cannabis Consumption (Retail, Microbusiness) Onsite consumption facilities as an accessory use at a Medical Cannabis Dispensary, Adult Use Retail, or Microbusiness permitted facility may be permitted subject to approval of a Use Permit, provided that: (1) access to the area where cannabis consumption is allowed is restricted to persons 21 years of age and older; (2) cannabis consumption is not visible from any public place or area open to persons under 21 years of age; and, (3) sale or consumption of alcohol or tobacco is not allowed on the premises. The applicant shall submit a site plan and operations plan that will demonstrate the onsite consumption facilities comply with these standards and all other limitations and restrictions, including but not limited to Health and Safety Code section 11362.3.

55.4.10.6 Commercial Cannabis Tours and Tour Sites Public visitation and tours of sites host to Commercial Cannabis Activities may be authorized at locations meeting the Performance Standards for Public Accommodation and Tours. Businesses conducting tours to Commercial Cannabis Activity sites may be authorized with a Zoning Clearance Certificate, subject to meeting the following criteria:

55.4.10.6.1 Tour businesses must collect guests from a secure location with adequate off-street parking to store the vehicles of all tour patrons.

55.4.10.6.2 The tour vehicle must be stored at a location authorized for storage of commercial vehicles.

Tour Businesses not meeting the above criteria may be permitted with a Special Permit. The application shall include a Plan of Operation detailing how the operation of the tour will not adversely affect public parking or conflict with neighboring uses, while complying with all applicable performance standards.

55.4.10.7 Cannabis Farm Stays Cannabis farm stays may be permitted in conjunction with a cannabis cultivation permit on properties in conformance with the Public Accommodation Performance Standards with a Special Permit as specified in Section 314-44.1 of the Humboldt County Code applicable to Bed and Breakfast establishments.

55.4.10.8 Transportation of Commercial Cannabis With a business license, persons may engage in the transportation of commercial cannabis. Such persons shall identify the location where the vehicle used in transportation will be stored, and may only transport commercial cannabis between sites that are permitted or licensed for commercial cannabis activities. Transportation does not include warehousing or storage of cannabis.

55.4.10.9 Cannabis Research Gardens shall be permitted wherever commercial cannabis cultivation activities are allowed, and subject to the same permitting requirements applicable to commercial cultivation activities, including participation in the Humboldt County and State of California track and trace program and annual inspection. Applications for a cannabis research garden permit shall provide an operations plan to include a verifiable method to assure that cannabis grown for research purposes is prevented from entering the stream of commerce.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

55.4.10.10 Interim Permitting of Pre-Existing Cultivation Sites where adequate evidence has been submitted demonstrating that a cultivation site existed prior to January 1, 2016, permit applications seeking authorization of commercial cannabis cultivation and ancillary activities at these sites shall be eligible to receive an interim permit, provided the application was filed prior to January 1, 2017 and has been determined to be complete for processing by the Director of the Planning and Building Department. Prior to issuance of any interim permit, the Department shall independently review evidence of prior cultivation and specify the size of pre-existing cultivation area (if any) based upon aerial and satellite imagery, or other substantial evidence. Approval of the interim permit is conditional and shall occur through issuance of a Zoning Clearance Certificate and written Compliance Agreement on forms provided by the County. Compliance agreements will specify permit restrictions, penalties, and commitments to complete the permit process and confine continued operation to existing areas only. Violation of the compliance agreement shall be grounds for permit cancellation and disqualification of the property from future permitting. The interim permit authorizes the permittee to seek state licensure and continue operations until completion of the local permit review process and issuance or denial of a County permit, or January 1, 2019, whichever occurs first. The Director may extend this deadline for cause. Refusal of the Director to issue or extend an interim permit shall not entitle the applicant to a hearing or appeal of the decision. Additionally, approval of any interim permit does not obligate the County to approve a non-interim permit or extension of the interim permit. Permit cancellation and disqualification of the property from future permitting shall be decided by the Zoning Administrator or the Planning Commission at a noticed public hearing. Those decisions may be appealed to the Board of Supervisors pursuant to the appeal procedures outlined under 312-13 of these regulations.

55.4.11 APPLICATION REQUIREMENTS FOR CLEARANCES OR PERMITS

Applications may be required to include any or all of the following information, depending on permit activities and location: Site Plan; Security Plan; Cultivation Plan, Processing Plan; Operations Plan; Irrigation Plan; Materials Management Plans; Hazardous Materials Site Assessments and Contingency Plans; Surveys for Biological Resources and Sensitive Habitat; Surveys for Archaeological, Tribal Cultural Resources, and Historical Resources; Assessments of project-related noise sources; Road System Assessments and Improvement Plans; Timberland Conversion Assessments; documentation of water use, source, and storage; will-serve letters from applicable providers of water and wastewater services; information concerning previously secured state and local permits for cannabis related infrastructure or activities; evidence of prior cultivation where seeking a permit as a pre-existing cultivation site; restoration and remediation plans where appropriate; plans for energy use; details of current known violations related to commercial cannabis activities, and documentation of conformance with the requirements of programs applicable to Cannabis Cultivation Activities administered by the State Water Resources Control Board and Regional Water Quality Control Board.

The County may request additional information prior to application intake, or during application processing, where deemed necessary to perform environmental review pursuant to the California Environmental Quality Act (CEQA). All required plans and reports shall be designed to demonstrate compliance with relevant eligibility and siting requirements, and applicable performance standards, while conforming to relevant checklists and guidance documents

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

maintained and supplied by the County. All Technical Reports and Plans are subject to final review and approval by the County.

55.4.12 PERFORMANCE STANDARDS

55.4.12.1 Performance Standards for All Commercial Cannabis Activities

Permittees and operators shall conduct all commercial cannabis activities in compliance with the following performance standards. Failure to comply shall be grounds for permit revocation and administrative penalties.

- 55.4.12.1.1 Maintain compliance with all applicable state laws and County ordinances.
- 55.4.12.1.2 Maintain valid license(s) issued by the appropriate state licensing authority or authorities for the type of activity being conducted, as soon as such licenses become available.
- 55.4.12.1.3 Where subject to state licensure, participate in local and state programs for "Track and Trace" once available.
- 55.4.12.1.4 Maintain a current, valid business license at all times.
- 55.4.12.1.5 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 – Friday, 9:00 am – 5:00 pm, excluding holidays).
- 55.4.12.1.6 Pay all applicable application and annual inspection fees.
- 55.4.12.1.7 Comply with any special conditions applicable to the permit or Premises which may be imposed.

55.4.12.1.8 Performance Standard–Road Systems

Roads providing access to any parcel(s) or premises on which commercial cannabis activities occur must comply with the following standards, as applicable:

a) Standard 1 – Dead End Road Length

Projects shall not be located more than 2-miles (measured in driving distance) from the nearest intersection with a Category 4 road or secondary access for emergency vehicles and personnel, including wildland fire equipment.

Where access to a site exceeds the Dead-End Road Length standard, the application may request an exception to the standard with a Special Permit. The exception request shall include a report prepared by a licensed engineer evaluating the design, condition, and performance of all related road segments for simultaneous emergency access and evacuation. The report shall include recommendations for road system enhancements (widening, turnouts, secondary access routes) to help mitigate the dead-end road condition. To approve the exception, it must be found current conditions or proposed improvements provide sufficient access for emergency vehicles and personnel while allowing for simultaneous evacuation.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

b) Standard 2 - Functional Capacity

Unless otherwise specified, roads providing access to the parcel(s) or premises must meet or exceed the Category 4 road standard (or same practical effect). The application package must demonstrate compliance with this requirement in one of the following ways:

- 1) parcel(s) served exclusively by roads which are paved publicly maintained or private roads where all portions of the paved road system feature a center-line stripe and two ten foot wide travel lanes require no further analysis only a notation on the plans that the access to the site meets this requirement, or
- 2) parcel(s) served by roads without a centerline stripe must submit a written assessment of the functional capacity of the road segments. If the assessment reveals that all road systems meet or exceed the Category 4 standard (or same practical effect), then no additional review is necessary. Documentation of self-certification shall be produced to the satisfaction of the County; including use of appropriate forms where provided. The County reserves the right to independently verify general compliance with this standard.
- 3) Where access to a site is provided by roads not meeting the Category 4 standard, the application shall require a Special Permit and include a report prepared by a licensed engineer evaluating whether the design, condition, and performance of all necessary road segments are currently capable of supporting increases in traffic volume created by the project, in addition to the existing traffic using the road(s). In the event that the roads cannot accommodate the traffic volume anticipated the engineer shall recommend improvements to bring the road up to an adequate functional capacity.
- 4) Where accessed via a driveway or private road intersecting a state highway, applications shall provide an evaluation of the performance and design of the road or driveway encroachment. The evaluation will identify the required improvements necessary to ensure proper function of the access based on anticipated traffic volumes. Improvements may include paving or widening of the throat of the driveway or private road, provision of adequate sight distances, and other improvements determined necessary to comply with Caltrans standards. A copy of an approved state encroachment permit (if required) will be provided to the County. All required improvements shall be completed prior to the initiation of any new commercial cannabis use(s).

c) Standard 3 – Private Road Systems - Protections for Water Quality and Biological Resources

- 1) Private road systems and driveways providing access to parcel(s) or premises shall be designed, maintained, or retrofitted in accordance with the latest edition of the document titled, "A Water Quality and Stream Habitat Protection Manual for County Road Maintenance in Northwestern California Watersheds", which was adopted by the Humboldt County Board of Supervisors on July 6, 2010, and is also known as the Five Counties Salmonid Conservation Roads Maintenance Manual. This includes measures to protect water quality using best management practices so that:

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

- i. Impacts from point source and non-point source pollution are prevented or minimized, including discharges of sediment or other pollutants that constitute a threat to water quality. Road segments shall be designed and maintained in ways which minimize the potential for discharge of sediment through measures to reduce velocity of runoff, capture and detain stormwater from road systems to enable settling of transported sediments, and minimize direct delivery to nearby watercourses, to the greatest extent feasible.
 - ii. Design and construction of culverts, stream crossings, and related drainage features shall remove barriers to passage and use by adult and juvenile fish, amphibians, reptiles, and aquatic invertebrates.
- 2) Where access to a site is provided in part by private roads systems, any application to permit a Commercial Cannabis Activity shall include a report evaluating the design, condition, and performance of all private road segments within the defined Roadshed.
- i. The report shall be prepared by a licensed engineer or similarly licensed professional.
 - ii. The report shall be prepared to the satisfaction of the County and shall include or be accompanied by exhibits and stationing information of sufficient detail to enable the location, attributes, and condition of all road drainage features to be itemized and documented. The narrative portion of the report must evaluate the current design, functionality and performance of discrete drainage systems and segments and develop conclusions concerning compliance and conformance with best management practices within the defined Roadshed. The County reserves the right to ask for additional information or choose to independently investigate and verify any and all conclusions within the report.
 - iii. Where an evaluation has determined, to the satisfaction of the County, that all private road segments comply with relevant best management practices, as defined herein, no further work is needed.
 - iv. Where an evaluation has determined that improvements within the projects' Roadshed are required, the report shall identify the location and nature of each discrete improvement. Improvements shall be tied to all provisional permit approval(s) within the defined Roadshed and identified within the Conditions of Approval of all discretionary permit applications.
- d) Road Maintenance Associations and Cost Sharing
- 1) Where three or more permit applications have been filed for Commercial Cannabis Activities on parcels served by the same shared private road system, the owner of each property must consent to join or establish the appropriate Road Maintenance Association (RMA) prior to operation or provisional permit approval. This requirement shall also apply to existing permittees seeking to renew their permit. Evidence shall be provided to the satisfaction of the County, and may include minutes from a meeting, written correspondence and confirmation from the RMA Secretary, or similar information.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

- 2) When one or more applicants in a defined roadshed have prepared and submitted a Professional Private Road Evaluation called for by this section, all contemporaneous applicants served by the same roadshed shall be required to contribute to the cost of preparation of the report. The cost allocation shall be determined by any Road Maintenance Association(s) within the roadshed that includes the road segments providing access to the cultivation site of each applicant. In determining the cost allocation, the Road Maintenance Association shall consider the recommendation or formula for cost sharing included in the report.
- 3) With each annual inspection, all applicants for Commercial Cannabis Activities within any RMA shall provide evidence they are current on all applicable dues or other payments required by the RMA.

e) Special Noticing Requirements

Wherever an exception to the Functional Capacity road standard is being sought, in addition to noticing property owners and occupants within 300 feet of the boundaries of the Parcel(s) or Premises, notice of the project will also be sent to all owners and occupants of property accessed through common Shared Use Private Road Systems.

55.4.12.1.9 The burning of plant material associated with the cultivation and processing of commercial cannabis is prohibited.

55.4.12.1.10 Performance Standard – Biological Resource Protections

Projects proposing new development activities shall provide the necessary information to implement the following mitigation measures from the Final Environmental Impact Report:

Mitigation Measure #	Description of Mitigation
3.4-1a	Biological reconnaissance surveys
3.4-1b	Special-status amphibian surveys and relocation/buffers
3.4-1c	Western pond turtle surveys and relocation/buffers
3.4-1d	Nesting raptor surveys and relocation/buffers
3.4-1e	Northern Spotted owl surveys
3.4-1f	Special-status nesting bird surveys/buffers
3.4-1g	Marbled murrelet habitat suitability surveys/buffers
3.4-1i	American badger surveys and buffers
3.4-1j	Fisher and Humboldt marten surveys and den site preservation/buffers
3.4-1k	Bat survey and Buffers
3.4-1l	Vole survey and relocation/buffers
3.4-3a	Special-status plants surveys
3.4-4	Protection of sensitive natural communities, riparian habitat, wetland vegetation
3.4-5	Waters of the United States
3.4-6b	Retention of Fisher and Humboldt marten habitat features

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

Exception: This section shall not apply to new development activities within the footprint of existing structures or proposed on lands planned or zoned for commercial or industrial activities.

During permitting of pre-existing cultivation sites, the Department shall determine the necessity and focus of any biological evaluations required in concert with consultation with the California Department of Fish and Wildlife. For pre-existing cultivation sites that submitted for permitting prior to December 31, 2019 within 0.7 miles of a known northern spotted owl activity center, a qualified biologist, familiar with the life history of the northern spotted owl, shall conduct a disturbance and habitat modification assessment to determine the presence of the species and whether the cultivation site can operate or have its operation modified to avoid take of the species. If it is determined that take of the species could occur, the cultivation site will be required to participate in the Retirement, Remediation, and Relocation provisions of the proposed ordinance to relocate the cannabis cultivation to outside of the northern spotted owl activity area.

55.4.12.1.11 Hazardous Material Site Assessments and Contingency Plans

Where commercial cannabis activities are located or proposed on a property previously developed with an industrial or heavy commercial use, applications must be accompanied by a Phase I Environmental Site Assessment (ESA) for the presence of potential hazardous materials. If the initial assessment indicates the presence or likely presence of contamination, a Phase II ESA shall be prepared. Assessments shall be prepared in accordance with standards of the American Society for Testing and Materials (ASTM), and shall include an updated review of environmental risk databases. Phase II assessments shall include recommendations which consider project objectives/activities, applicable regulatory criteria, potential exposure pathways, and risk thresholds. Where demolition activities are proposed, ESA(s) shall include a survey for the presence of hazardous building materials, and specify appropriate treatment of solid waste during demolition and disposal.

- a) Where contamination at the project site has been verified, a hazardous materials contingency plan shall be submitted for County review and approval during permit review. The permittee, their employees, and any contractors shall abide by and implement the plan during any construction activities involving ground disturbance.
- b) Permit applications proposing work requiring demolition shall include a survey for the presence of hazardous building materials. ESA(s) shall provide recommendations for treatment of these materials during demolition as well as their disposal.
- c) If at any time during construction, evidence of soil and/or groundwater contamination with hazardous material is encountered, the project applicant shall immediately halt construction and contact Humboldt County Division of Environmental Health. Work shall not recommence until the discovery has been assessed/treated appropriately to the satisfaction of Humboldt County Division of Environmental Health, North Coast Regional Water Quality Control Board, and California Department of Toxic Substances Control (as applicable). This may include soil or groundwater sampling and remediation if potentially hazardous materials are detected above threshold levels.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

55.4.12.1.12 Stormwater Management

Applications for cannabis activities shall include a plan detailing how stormwater will be addressed for the property, including the location, capacity, and operation of all existing and proposed drainage facilities and features. The plan shall describe current drainage conditions and include analysis of any proposed alteration of on-site and off-site drainage flows. The plan shall prescribe measures to ensure that the project will retain pre-project drainage conditions, and in particular that there will be no net increase in the volume of stormwater runoff from the property. These measures shall be incorporated into the project design, subject to County review and approval during permit review. The plan shall specify maintenance intervals for all drainage improvements, which shall be observed for the lifetime of the permit.

55.4.12.1.13 Management of Waste and Hazardous Materials

- a) Applications shall include a plan for disposal of project-related waste, including: solid waste such as: plant material, greenhouse framing, plastics and tarpaulin used in greenhouse sheathing and coverings, household trash, product packaging and containers, irrigation tubing, pots and similar containers used for propagation and cultivation, lighting, water bladders or tanks, pond liners, electrical lighting fixtures, wiring and related equipment, and fencing. Other forms of waste include effluent and byproducts from commercial activities (eg. water or wastewater rich in plant chlorophyll or salts, spent fuels or solvents, etc.)
- b) Where project-related activities involve storage and use of hazardous materials at a reportable quantity, applicants shall prepare a materials management plan which details: operating procedures and processes, associated equipment and cleaning procedures, chemical requirements and reactions, waste volumes, storage areas, chemical handling procedures, and emergency equipment.

55.4.12.1.14 Protection of Historical Resources

Applications proposing projects which include the removal or exterior alteration of structures over 45-years in age shall provide a report prepared by a historical consultant meeting the Secretary of the Interior's Professional Qualification Standards. The report shall include an evaluation and determination concerning whether the property contains historical resources which are listed or eligible for listing on any State, Federal, or Local register of Historical Resources, using applicable criteria and standards for listing, including section 15064.5 of the CEQA Guidelines. If resources included or eligible for inclusion in the National Register of Historic Places, California Register of Historic Resources, or Local Register are identified, an assessment of impacts on these resources shall be included in the report, as well as detailed measures to avoid impacts.

55.4.12.1.15 Inadvertent Discovery of Archaeological and Paleontological Resources

- a) If cultural resources are encountered during ground disturbing 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), shall be contacted to evaluate the discovery and, in consultation

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

with the applicant and lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided. The Planning and Building Department shall provide information regarding the appropriate Tribal point(s) of contact for a specific area. 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.

- b) If a paleontological discovery is made during construction, the contractor shall immediately cease all work activities in the vicinity (within approximately 100 feet) of the discovery and shall immediately contact the County. A qualified paleontologist shall be retained to observe all subsequent grading and excavation activities in the area of the find and shall salvage fossils as necessary. The paleontologist shall establish procedures for paleontological resource surveillance and shall establish, in cooperation with the project developer, procedures for temporarily halting or redirecting work to permit sampling, identification, and evaluation of fossils. If major paleontological resources are discovered that require temporarily halting or redirecting of grading, the paleontologist shall report such findings to the County. The paleontologist shall determine appropriate actions, in cooperation with the applicant and the County, that ensure proper exploration and/or salvage.

55.4.12.2 Performance Standards for Commercial Cannabis Cultivation Activities

Permittees and operators shall conduct all commercial cannabis activities in compliance with the following performance standards. Failure to comply shall be grounds for permit revocation and administrative penalties.

General Standards applicable to all Commercial Cannabis Activities

- 55.4.12.2.1 All applicable statutes, regulations and requirements of the North Coast Regional Water Quality Control Board and State Water Resources Control Board. To be eligible for submittal and processing, permit applications must include information detailing all measures to achieve compliance with relevant requirements of these agencies. These measures shall be subject to verification during subsequent permit inspection(s).
- 55.4.12.2.2 Any substantially equivalent rule addressing water quality protections and waste discharge that may be subsequently adopted by the County of Humboldt or other responsible agencies.
- 55.4.12.2.3 All terms of any applicable Streambed Alteration Permit obtained from the Department of Fish & Wildlife.

Where no prior agreement has been secured for prior work within areas of DFW jurisdiction, entering an agreement pursuant to 1602 of the Fish and Game Code shall not be completed until the County permit has finished.
- 55.4.12.2.4 All terms of any permit or exemption approved by the California Department of Forestry and Fire Protection (CAL-FIRE), including a less-than-3-acre conversion exemption or timberland conversion permit.

Where existing or proposed operations occupy sites created through prior

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

unauthorized conversion of timberland, if the landowner has not completed a civil or criminal process and/or entered into a negotiated settlement with CAL-FIRE, the applicant shall secure the services of a registered professional forester (RPF) to evaluate site conditions and conversion history for the property and provide a written report to the Planning Division containing the RPF's recommendation as to remedial actions necessary to bring the conversion area into compliance with provisions of the Forest Practices Act. The Planning Division shall circulate the report to CAL-FIRE for review and comment.

55.4.12.2.5 Trucked water shall not be allowed, except for emergencies. For purposes of this provision, "emergency" is defined as: "a sudden, unexpected occurrence demanding immediate action.

55.4.12.2.6 Provide and maintain an approved means of sewage disposal.

55.4.12.2.7 All federal, state, and local laws and regulations applicable to California Agricultural Employers, including those governing cultivation and processing activities.

55.4.12.2.8 All construction activity and use of heavy equipment shall take place between 7:00 A.M. and 6:00 P.M., Monday through Friday, and between 9:00 A.M. and 6:00 P.M. on Saturday and Sunday.

55.4.12.3 *[Reserved for Future Use]*

55.4.12.4 Performance Standard for Light Pollution Control

- a) Structures used for Mixed Light Cultivation and Nurseries shall be shielded so that no light escapes between sunset and sunrise.
- b) Where located on a Parcel abutting a residential Zoning District or proposed within Resource Production or Rural Residential areas, any Security Lighting for Commercial Cannabis Activities shall be shielded and angled in such a way as to prevent light from spilling outside of the boundaries of the Parcel(s) or Premises or directly focusing on any surrounding uses.
- c) The County shall provide notice to the operator upon receiving any light pollution complaint concerning the cultivation site. Upon receiving notice, the applicant shall correct the violation as soon as possible and submit written documentation within ten (10) calendar days, demonstrating that all shielding has been repaired, inspected and corrected as necessary. Failure to correct the violation and provide documentation within this period shall be grounds for permit cancellation or administrative penalties, pursuant to the provisions of 55.4.5.3.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

55.4.12.5 Performance Standards for Energy Use

All electricity sources utilized by Commercial Cannabis Cultivation, Manufacturing, or Processing activities shall conform to one or more of the following standards:

- 55.4.12.5.1 grid power supplied from 100% renewable source
- 55.4.12.5.2 on-site renewable energy system with twenty percent net non-renewable energy use
- 55.4.12.5.3 grid power supplied by partial or wholly non-renewable source with purchase of carbon offset credits

Purchase of carbon offset credits (for grid power procured from non-renewable producers) may only be made from reputable sources, including those found on Offset Project Registries managed the California Air Resources Board, or similar sources and programs determined to provide bona fide offsets recognized by relevant state regulatory agencies.

55.4.12.6 Performance Standard for Noise at Cultivation Sites

Noise from cultivation and related activities shall not result in an increase of more than three decibels of continuous noise above existing ambient noise levels at any property line of the site. Existing ambient noise levels shall be determined by taking twenty-four hour measurements on three or more property lines when all cannabis related activities are not in operation.

- a) In TPZ zones and U zones (with a General Plan Land Use Designation of "Timberland"), the use of generators is prohibited.
- b) Where located within one (1) mile of mapped habitat for Marbled Murrelet or Spotted Owls where timberland is present, maximum noise exposure from the combination of background cultivation related noise may not exceed 50 decibels measured at a distance of 100 feet from the noise source or the edge of habitat, whichever is closer. Where ambient noise levels, without including cultivation related noise, exceed 50 decibels within 100 feet from the cultivation related noise source or the edge of habitat, cultivation-related noise sources may exceed 50 decibels provided no increase over ambient noise levels would result.
- c) The permit application must include information demonstrating compliance with the noise standards, including but not limited to:
 - i) site plan detailing the location of all noise sources, property lines, and nearby forested areas and sensitive receptors
 - ii) existing ambient noise levels at the property line using current noise measurements (excluding cultivation related noise)
 - iii) Details on the design of any structure(s) or equipment used to attenuate noise
 - iv) Details on the location and characteristics of any landscaping, natural features, or other measures which serve to attenuate noise levels at nearby property lines or habitat.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

55.4.12.7 Performance Standards for Cannabis Irrigation

A Special Permit shall be required where Irrigation of Commercial Cannabis Cultivation Activities occurs wholly or in part using one or more Diversionary sources of water. All Cannabis Irrigation, regardless of cultivation area, shall be subject to the following standards:

Documentation of Current and Projected Water Use

55.4.12.7.1 All requests to permit Commercial Cannabis Cultivation Activities shall provide information detailing past and proposed use(s) of water on the Parcel(s) or Premises. Information in the plan shall be developed to the satisfaction of County staff and will be used to assist in identifying and establishing an appropriate Forbearance Period. At a minimum, the following items shall be included:

- a) Information identifying the cultivation season(s)
- b) A water budget showing monthly past or projected Irrigation demands, including periods of peak usage, broken out by each discrete Cultivation Site. Irrigation reporting or projections shall be differentiated where cultivation methods and conditions result in differences in water usage at specific cultivation sites.
- c) A listing of current or proposed areas of on-site water storage, showing volume in gallons.
- d) A description of on-site water conservation measures including but not limited to: rainwater catchment systems, drip irrigation, timers, mulching, irrigation water recycling, and methods for insuring Irrigation occurs at agronomic rates

Forbearance Period & Storage Requirements

55.4.12.7.2 Operators of Cannabis Cultivation Site(s) shall forbear from diversions of Surface Water for Irrigation during periods of low or reduced stream flows, in accordance with requirements of the State Water Resources Control Board.

55.4.12.7.3 The County may require the submittal of a water management plan prepared by a qualified person such as a licensed engineer, hydrologist, or similar licensed professional, establishing a smaller or larger water storage and forbearance period, if required, based upon local site conditions.

55.4.12.7.4 Where subject to forbearance, the applicant shall provide a plan for developing adequate on-site water storage to provide for Irrigation, based on the size of the area to be cultivated.

Metering and Recordkeeping

55.4.12.7.5 A metering device shall be installed and maintained on all discrete points of diversion or other locations of water withdrawal (including wells). The meter shall be located at or near the point of diversion or withdrawal.

55.4.12.7.6 A metering device shall be installed and maintained at or near the outlet of all water storage facilities utilized for Irrigation.

55.4.12.7.7 Operators shall maintain a weekly record of water collected from Diversionary sources, as well as a record of all water used in Irrigation of permitted Cultivation Areas. A copy of these records shall be stored and maintained at the cultivation site, and kept separately or differentiated from any record of water use for domestic, fire protection, or other irrigation purposes. Irrigation records shall be reported to the County on an annual

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

basis, at least thirty (30) days prior to the date of each annual permit inspection. Records shall also be made available for review during site inspections by local and state officials.

55.4.12.8 Performance Standards for Water Storage

All facilities and equipment storing water for Irrigation shall be designed and managed in conformance with the following performance standards, as applicable:

Ponds and Reservoirs

- a) Except in limited circumstances where already permitted or existing, ponds shall be located "off-channel" from watercourses and adequately setback from streams, springs, and other hydrologic features.
- b) To prevent occupancy by and survival of non-native bullfrog species, ponds shall be designed to be drained. Draining may be required on an annual basis or other interval where determined necessary.
- c) Introduction or maintenance of non-native species is prohibited where an existing or proposed pond is filled from, or outlets to a nearby stream or wetland.
- d) Ponds shall be designed with pathways enabling escape by local wildlife. These may include rock-lined portions or similar features providing equivalent means of egress.
- e) All ponds and reservoirs shall be designed by a licensed civil engineer where utilizing a dike, earthen dam, berm or similar feature to facilitate water storage. The engineer shall evaluate the risk of pond failure under natural conditions and specify provisions for periodic inspection, routine maintenance, and long-term management. An engineered reclamation and remediation plan shall be submitted for County approval within one year of sunset or cancellation of the permit, and completed within standard permitting timeframes.

Bladders & Above-Ground Pools, and similar vessels

- f) Use of bladders, above-ground pools, and similar vessels is prohibited. Where a Pre-Existing Cultivation site utilizes any of these means for water storage, removal and replacement with a substitute approved method of water storage (e.g. tank(s), reservoir, etc.) shall be completed within 2 years of provisional permit approval.

Tanks located in designated Flood Zones

- g) Tanks shall be sited at least one foot above the base flood elevation or wet flood proofed and anchored.

55.4.12.9 Performance Standard for Wells on Small Parcels

Cultivation Site(s) located within areas planned or zoned for lot sizes of ten acres or smaller where proposing or conducting Irrigation with water from a proposed or existing well located within 400 feet of a property line, shall be subject to groundwater testing to determine connectivity of the source supply well. These tests shall be preceded by a minimum of eight (8) hours of non-operation to maintain a static depth to water measurement. Results of testing are required to be provided with the permit application submittal. If the testing demonstrates use of the well results in the drawdown of any adjacent well(s), a Special Permit will be required. Use of the well for cannabis-related Irrigation may be prohibited, limited, or subject to provisional approval and monitoring.

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

55.4.12.10 Soils Management Performance Standard

A soils management plan shall be provided detailing the use of imported and native soil on the Parcel(s) or Premises. The plan shall provide accounting for the annual and seasonal volume of soil that is imported and exported and documentation of the approved location of any Parcel(s) used for off-site disposal of spent soil if this occurs or is proposed.

55.4.12.11 Existing Site Reconfiguration

- a) Where an existing site does not conform to one or more performance standards or eligibility criteria, or cannot comply with local, state, or federal regulatory requirements, reconfiguration of the cultivation site and associated infrastructure may be permitted, provided that the reconfiguration results in an improvement in the environmental resources of the site, and the site is brought into compliance with the requirements of this section.
- b) A Biological Resource Protection Plan must be included. The plan shall be prepared by a qualified professional and evaluate whether prior unpermitted development or disturbance has occurred within a Streamside Management Area, Sensitive Plant Community, or area of similar biological sensitivity.
- c) Any new timberland conversion proposed in association with cultivation site reconfiguration must not exceed the areas of existing conversion to be relocated.

Pre-Existing cultivation areas to be relocated must be restored to pre-disturbance conditions and restocked and/or managed to promote recovery by native vegetation and tree species.

- f) Existing interior driveways and road networks may be reconfigured to achieve better design and compliance with road standards and watercourse protections.

All relocated road segments must be fully decommissioned and restored to pre-disturbance conditions or mothballed and stabilized to ensure that they are no longer a threat to water quality. Relocated road systems occupying the site of converted timberland shall be restocked and/or managed to promote recovery by native vegetation and tree species.

- g) All remediation activities shall be performed in accordance with the Remediation Performance Standard.

55.4.12.12 Performance Standard for Adaptive Reuse of Developed Industrial Site(s)

All Commercial Cannabis Activities shall be conducted in a way which avoids displacing or destroying existing buildings or other infrastructure on the Parcel developed for prior commercial or industrial uses. Adaptations shall be carefully designed to preserve future opportunity for future resumption or restoration of other commercial or industrial uses after Commercial Cannabis Activities have ceased or been terminated.

- a) Development of additional buildings or infrastructure only allowed once existing infrastructure has been fully occupied.
- b) Interior changes or additions to facilities must not prevent future re-occupancy by new uses which are compatible with the base zoning district or consistent with historic prior operations.
- c) Newly constructed facilities must comply with all development standards of the principal zoning district(s)

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

55.4.12.13 Performance Standard for Remediation Activities

All remediation activities shall be conducted in accordance with the requirements for Mitigation and Monitoring Plans described within 314-61.1 of the Humboldt County Code, including the standards for documentation, reporting, and adaptive management.

55.4.12.14 Performance Standard for Public Accommodations

Sites of permitted Commercial Cannabis Activities may be authorized to host visits by the general public, as follows:

- a) Public visitation may be principally permitted with a Zoning Clearance Certificate at all sites within Commercial and Industrial Zoning Districts or where zoned Unclassified and planned for or developed with lawful commercial or industrial uses, when meeting the requirements of this section.
- b) Public visitation may be permitted with a Special Permit at sites located within those zones listed under 55.4.6.1.1 (AE, AG, FR, and U), when meeting the requirements of this section. Where access to the site is provided through Shared Use Private Road Systems, notice of the project will also be sent to all owners and occupants of property accessed through these common road systems, pursuant to 55.4.12.1.8(e). The permit may limit or specify the size and weight of vehicles authorized to visit the site, periods during which visitation may occur, and other measures to ensure compatibility with neighboring land uses and limit impacts to Shared Use Private Road Systems.
- c) Visitation by the general public may include Tours and Tour Groups, Farmstays, Farm-Based Retail Sales, and similar activities. Visitation does not include weddings, parties, or similar occasions. Special Events and other Temporary Uses are permissible with a Conditional Use Permit pursuant to 314-62.1.

55.4.12.14.1 The following standards apply to any Commercial Cannabis Activity site open to the public:

- a) Sites located in those zones specified in Section 55.4.6.1, shall limit hours of operation for public access other than employees to between 9:00 am to 6:00 pm.
- b) Restroom facilities shall be provided for visitors to the site.
- c) All facilities open to the public (parking, structures, restrooms, etc.) shall be designed and managed in compliance with relevant provisions for accessibility, as established in compliance with the Americans with Disabilities Act (ADA).
- d) Agricultural-exempt structures may not be opened to visitation by the general public.
- e) Road System & Driveways

1) *Locational Criteria*

The Parcel(s) or Premises shall be located on roads that are paved with centerline stripe, or paved meeting the Category 4 standard. Exceptions may be considered with a Use Permit. Where an exception is sought, the Use Permit application shall include an evaluation of the local road network and relevant segments prepared by a licensed engineer. The engineers report shall include substantial evidence to support a finding that standards for the protection of public health and safety, including fire safe road

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

access, capacity to support anticipated traffic volumes, water quality objectives, and protection of habitat can be met.

- 2) Sites shall have a driveway and turnaround area meeting the following requirements:
 - i. All driveways shall be constructed to a minimum Road Category 1 standard. Driveways shall have a minimum 10-foot traffic lane and an unobstructed vertical clearance of 15 feet along their entire length. Driveways in excess of 1,320 feet in length shall be constructed to the standard for Road Category 2.
 - ii. Driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where a driveway exceeds 800 feet, turnouts shall be spaced at intervals of approximately 400-foot intervals. The location and spacing of turnouts shall be in conformance with the County Roadway Design Manual.
 - iii. A turnaround shall be within 50 feet of the parking area.
 - iv. The minimum turning radius for a turnaround shall be 40 feet from the center line of the road. If a hammerhead/T is used, the top of the "T" shall be a minimum of 60 feet in length.
 - v. Sites within the jurisdiction and service area of a local fire protection district shall meet the driveway and turnaround requirements of that agency.
- f) Parking
 - 1) Sites shall provide adequately sized on-site parking for tour vehicles.
 - 2) Sites shall include a minimum of six (6) parking spaces plus one (1) additional parking space for every two employees

55.4.12.15 Performance Standards for Tour Operators and Tour Sites

Tour Operators

Tour Operators shall comply with all of the following measures:

- a) The use of sound amplification equipment outside the tour vehicle is prohibited.
- b) Tour guests shall be restricted to adults 21 years of age or older. Age shall be verified prior to the start of any tour.
- c) Travel shall only be made to sites eligible for hosting visits by the general public. Prior to initially visiting any site, the tour operator shall contact the Planning and Building Department to confirm the eligibility of the site, and any applicable special conditions.
- d) Tour operators shall observe any vehicle weight restrictions when visiting tour sites.

Tour Site Eligibility Criteria

Where authorized, the site(s) of any permitted Commercial Cannabis Activity may host tours when meeting the following criteria:

- e) The site(s) conform with the Public Accommodation Performance Standard
- f) Visitation is restricted to vehicles in compliance with the applicable weight restriction

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; meeting on May 8, 2018

55.4.12.16 Invasive Species Control

It is the responsibility of a certificate or permit holder to work to eradicate invasive species. As part of any application, the existence of invasive species on the project parcel need to be identified, including the type(s) of invasive plant species, where they are located, and a plan to control their spread. All invasive plant species shall be removed from the cultivation site and associated infrastructure using measures appropriate to the species. Removal shall be confirmed during subsequent annual inspection. Corrective action may be required if invasive species are found to have returned.

55.4.13 HUMBOLDT ARTISANAL BRANDING

The county shall develop a program for recognition and certification of commercial cannabis cultivators meeting standards to be established by the Agricultural Commissioner, including, but not limited to, the following criteria:

- a) Cultivation area of 3,000 square feet or less
- b) Operated by a County permit and state license holder who resides on the same parcel as the cultivation site
- c) Grown exclusively with natural light
- d) Meets organic certification standards or the substantial equivalent

55.4.14 RIGHT TO FARM DISCLOSURE

When required to execute or make available a disclosure statement pursuant to 314-43.2 of the code "Right to Farm Ordinance", said statement shall include information describing the possibility of commercial cultivation of cannabis.

ATTACHMENT 6

**Public Comments Received by the Humboldt County Planning and Building Department
After December 14, 2017**



Klamath-Trinity Joint Unified School District

P. O. BOX 1308 + HOOPA, HUMBOLDT COUNTY, CALIFORNIA 95546

JON RAY
Superintendent

Telephone (530) 625-5600

FAX (530) 625-5611

Web address: <http://www.ktjUSD.k12.ca.us>

November 13, 2018



Dear Humboldt County Board of Supervisors:

As Superintendent of Schools for the Klamath-Trinity Joint Unified School District ("District"), I once again write to express the District's strong opposition to the proposed rezoning of Key Parcel Number 522-491-017, which would allow for a cannabis processing facility only 56 feet from the District's Trinity Valley Elementary School ("TVES"). For the reasons discussed below and others, the placement of a cannabis processing facility in such close proximity to TVES and its students unconscionably ignores the needs of both the school community and the broader community and must be rejected. I have enclosed my prior letters, dated February 13, 2018 and March 5, 2018, for your reference.

On January 11, 2018, the Humboldt County ("County") Planning Commission voted to approve ZR-16-002, MCMP, LLC Zone Reclassification. It is now our understanding that on December 4, 2018, the County Board of Supervisors will consider whether to give final approval to the proposed rezoning. With this letter, the District reiterates its strong opposition to the proposing rezoning and urges you not to approve this project.

As stated in my March 5, 2018 letter, the District respectfully disagrees with the County Planning and Building Department, Current Planning Division's December 14, 2017 Report regarding the proposed cannabis facility. Specifically, the District disagrees with the conclusions that 1) the 600-foot setback requirement does not apply to a "manufacturing" facility, and 2) the proposed cannabis facility is 1,270 feet from the school. As discussed in detail below, at least a 600-foot setback requirement is crucial to protect the welfare of TVES and its students, as well as the community at large. Allowing a cannabis facility to operate just 56 feet away from TVES increases the probability that our children will be exposed to cannabis, and thereby places our children at risk of increased drug use and abuse.

Under the Control, Regulate, and Tax Adult Use of Marijuana Act ("Act"), cannabis businesses may not be located within 600 feet of a school, unless a licensing authority or a local jurisdiction specifies a different radius. (Cal. Bus. & Prof. Code § 20654(b).) The District notes that both the 2016 Commercial Medical Marijuana Land Use Ordinance ("CMMLUO") and the 2018 Commercial Cannabis Land Use Ordinance ("CCLUO") specify no setback requirement for so-called cannabis "manufacturing" facilities, unless manufacturing activities include flammable extraction. Nonetheless, the public policy under the Act is clear – cannabis-related

businesses should not be close to schools. As a result, the District respectfully submits that a safe setback distance between the proposed cannabis facility and TVES is warranted here.

At a so-called cannabis “manufacturing” facility, the District understands that no cultivation of cannabis plants or distribution of consumable cannabis products will occur, at least without a subsequent change in zoning following a public hearing. Nevertheless, at the proposed cannabis facility, the District understands that the raw materials (i.e. marijuana plants) will be delivered to the proposed cannabis facility. The proposed cannabis facility will then produce cannabis concentrate using water-based, food-based, and solvent-based methods. Following production, the proposed cannabis facility will deliver consumable cannabis products to dispensaries and other distributors. Given the fact that the proposed cannabis facility will possess marijuana plants and consumable cannabis products, there is no distinction between a so-called cannabis “manufacturing” facility and other cannabis facilities, and a safe setback distance that does not place this activity in such close proximity to TVES and its children is warranted.

Please also note, establishing a safe setback distance is important for at least two reasons. First, it allows the citizens of Humboldt County to understand where cannabis facilities are permitted and how close they will be to schools. By failing to establish a safe setback distance for so-called cannabis “manufacturing” facilities, the County appears positioned to create a loophole allowing placement of cannabis-related facilities near schools.

It also bears noting that locating cannabis-related facilities away from schools is supported by judicial precedent. For example, courts have long recognized the important public interest in enacting common-sense restrictions to keep drug and alcohol facilities away from schools. For instance, in *Weiss v. State Board of Equalization*, the California Supreme Court upheld the denial of an off-sale license at premises within 80 feet of a school, stating that, “a reasonable person could conclude that the sale of liquor on such premises would adversely affect the public welfare and morals.” (*Weiss v. State Ed. of Equalization* (Cal. 1953) 40 Cal.2d 772, 775-776; see also Cal. Const., Art. XX § 22.) Similarly, the California Court of Appeal in *Donia v. Alcoholic Beverage Control Appeals Board* upheld the Department's denial of a license to a convenience store located near an elementary school in a low-income area, recognizing that, “there is considerable expert evidence of the recognized effects of off-sale outlets on public drinking, the associated police problems and the psychological effect of public drinking on children.” (*Donia v. Alcoholic Bev. Control Appeals Bd.* (Cal. App. 1985) 167 Cal.App.3d 588, 596.)

These court decisions demonstrate the historic understanding that local communities should enact common-sense restrictions to keep drug and alcohol facilities away from schools. The County’s failure to enact any setback requirement for so-called cannabis “manufacturing” facilities departs from the community’s expectation that our children will not be exposed to cannabis at such a young age and, as described in greater detail below, flatly ignores the unique needs of the youth in our community who have struggled with drug addiction at levels far beyond those of other California communities.

Second, drug abuse in our schools and in our community remains an ongoing concern that has plagued our community for decades. District students are particularly susceptible to

marijuana and other drug abuse. According to a 2016 study¹ of District students, 18.6% percent of Hoopa Valley Elementary School ("HVES") 7th and 8th grade students used marijuana in the month prior to the study. Additionally, the study revealed that 36.8% of HVES students reported that most of their friends use marijuana. Further, many of the conditions that often contribute to drug abuse, such as fractured family units and poverty, are present in our community.

You should also be aware that courts have deeply analyzed the important state interest in deterring drug use by schoolchildren. For example, the United States Supreme Court recognized that deterring drug use by schoolchildren is an, "important - indeed, perhaps compelling" interest, reasoning that, "[d]rug abuse can cause severe and permanent damage to the health and well-being of young people." (*Morse v. Frederick* ("Morse") (2007) 551 U.S. 393, 407.) Specifically, the Court stated:

School years are the time when the physical, psychological, and addictive effects of drugs are most severe. Maturing nervous systems are more critically impaired by intoxicants than mature ones are; childhood losses in learning are lifelong and profound; children grow chemically dependent more quickly than adults, and their record of recovery is depressingly poor. And of course the effects of a drug-infested school are visited not just upon the users, but upon the entire student body and faculty, as the educational process is disrupted. (*Id.*)

The court in *Morse* concluded, "[t]he drug abuse problem among our Nation's youth has hardly abated... [i]n fact, evidence suggests that it has only grown worse." (*Id.*) For the reasons stated above, the presence of cannabis in such proximity to TVES is harmful to the District's students.

The District also respectfully disagrees with the County Planning and Building Department, Current Planning Division's December 14, 2017 Report that the proposed cannabis facility is 1,270 feet from TVES. It is unclear exactly how the County Planning and Building Department incorrectly determined the proposed cannabis facility was 1,270 feet from TVES. However, the Act specifies that the distance between the premises and a school is to be measured as "the horizontal distance measured in a straight line from the property line of the school to the closest property line of the lot on which the [premises] is to be located without regard to intervening structures." (Cal. Bus. and Prof. Code § 26054(b); Cal. Health and Safety Code § 11362.768(c).)

The District's information shows that the proposed cannabis facility is only 56 feet, measured from property line to property line, from TVES. To aid the County's final determination, we have included Google Earth Image detailing the close physical proximity of the proposed cannabis facility to the existing elementary school.

The actual distance from the proposed cannabis facility to TVES, when measured consistent with the applicable legal standard, is in stark contrast to the "approximately 1,270 feet" noted above. The distance of 1,270 feet creates the illusion that the proposed cannabis

¹ See *Drug and Alcohol Use Among Hoopa Valley Elementary School 7th – 8th Graders, Fall 2016*, CSU: Tri-Ethnic Center for Prevention Research, Dept. of Psychology.

facility would be a safe distance away from TVES. In fact, as detailed in the attached visual depiction, the proposed cannabis facility is across the street from TVES, visible to students going to or from school.

Moreover, the District is concerned that the Planning Division appears to have approved the proposed cannabis facility predicated on a misunderstanding that it is 1,270 feet away from the TVES. Had the Planning Division understood the actual distance was only 56 feet, we assume that it would have concluded that locating the facility in such close proximity to TVES would be unconscionable and deeply damaging to the school's students, and the community's interest.

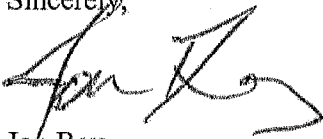
Finally, the County should take other community concerns into account when evaluating the proposed rezoning. Our community includes large indigenous communities that depend on safe schools, clean water, a healthy river and a clean and healthy environment. TVES includes a significant number of indigenous children. Allowing a proposed cannabis facility directly across the street from a TVES creates a significant negative impact for our indigenous communities.

In summary, the District respectfully submits that the proposed cannabis facility must not be placed directly across the street from TVES. The proposed location of the cannabis facility is only 56 feet away from TVES when a safe setback distance is warranted. Moreover, drug abuse has and continues to have an adverse impact on our students and the school environment. Allowing a cannabis facility to be in such close proximity to our children significantly increases the probability that our children, members of a community disparately impacted by drug abuse, will be exposed to drug abuse. As a result, the District respectfully requests the County reject this project.

Although the District desires to work cooperatively with its local community, please be advised that the District will pursue any and all necessary legal action to prohibit the proposed cannabis facility from operating across from TVES, or otherwise challenge any action by the County to approve such project.

Thank you for your attention to this correspondence. If we can provide any additional information, please do not hesitate to call.

Sincerely,



Jon Ray
Klamath-Trinity Joint Unified School District

Enclosures: Letter dated February 13, 2018
Letter dated March 5, 2018
Google Earth Image



Trinity Valley
Elementary
School

Trinity Valley Elementary School

Mercer
Fraser



Klamath-Trinity Joint Unified School District

P. O. BOX 1308 + HOOPA, HUMBOLDT COUNTY, CALIFORNIA 95546

JON RAY
Superintendent

Telephone (530) 625-5600

FAX (530) 625-5611

Web address: <http://www.ktjUSD.k12.ca.us>



March 5, 2018

Dear Humboldt County Board of Supervisors:

In follow-up to our previous letter, dated February 13, 2018, we write to once again express the Klamath-Trinity Joint Unified School District's strong opposition to the proposed rezoning of Key Parcel Number 522-491-017, including to allow for cannabis manufacture and processing. It is our understanding that on January 11, 2018 the County Planning Commission voted to approve ZR-16-002, MCMP, LLC Zone Reclassification. On February 13, 2018, we sent a letter to the County Board of Supervisors expressing our opposition to the proposed rezoning, given the unlawful proximity to the elementary school, and the interest in deterring drug abuse by schoolchildren. A copy of the letter is enclosed here for reference.

It is our understanding that the County Board of Supervisors will now consider whether to give final approval to the proposed rezoning. With this letter, we strenuously reiterate our opposition to the proposing rezoning, drawing specific attention to the legal prohibitions on locating marijuana facilities in close proximity to public school sites, and urge you not to approve this project.

Page 3, Executive Summary of the December 14, 2017 report presented to the County of Humboldt, Planning and Building Department, Current Planning Division, regarding "MCMP, LLC, Zone Reclassification and Special Permit" ("Report"), provides:

The ultimate objective of this application is to develop and operate a commercial medical cannabis manufacturing facility on a portion of a parcel that hosts an active surface mining and processing operation including a concrete batch plant. . . . Trinity Valley Elementary School's property is approximately 1,270 feet from the proposed location. The 600 foot setback requirement from schools, school bus stops, churches, etc. that applies to commercial cannabis cultivation does not apply to this project because 1) it does not include cultivation; and 2) the setback requirement does not extend to commercial cannabis manufacturing.

The District respectfully disagrees with the above conclusion and believes the setback requirement applies to this medical cannabis manufacturing facility, thereby prohibiting its current proposed location which is only 56 feet from the District's Trinity Valley Elementary School ("TVES"), when measured consistent with applicable legal standards.

For example, as stated previously, the Control, Regulate, and Tax Adult Use of Marijuana Act ("Act") prohibits marijuana businesses from being located within 600 feet of schools, day cares, or youth centers. (See Cal. Bus. & Prof. Code § 26054(b); 16 C.C.R. § 5026.) Specifically, this prohibition applies to any "premises licensed under" Division 10 (Cannabis) of the Business and Professions Code, and/or under the California Bureau of Cannabis Control. (Cal. Bus. & Prof. Code §§ 26000 *et seq.*; 16 C.C.R. §§ 5000 *et seq.*) As part of the Medicinal and Adult-Use Cannabis Regulation and Safety Act, these laws and regulations pertain to all state licenses related to cannabis or cannabis products intended for adults without a physician's recommendation as well as commercial cannabis activity involving medicinal cannabis, and including licenses related to the sale, distribution, and manufacture of cannabis. (Cal. Bus. & Prof. Code §§ 26001(a), (ae), 26070(a), 26130(a).) For these purposes, "commercial cannabis activity" is the "cultivation, possession, *manufacture*, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis products." (*Id.* § 26001(k), emphasis added.) Thus, the conclusion quoted above that "the setback requirement does not extend to commercial cannabis manufacturing" is incorrect. (See Report, p. 3.)

Here, the December 14, 2017 Report specifically represents that MCMP will "operate a commercial medical cannabis manufacturing facility." (Report, p. 3.) The Report makes clear that MCMP will "produce cannabis concentrate," will accept "raw product" from state licensed providers, and will sell "finished product" to "State license facilities on a wholesale basis." (Report, p. 3.) Based on these activities, MCMP is subject to the licensing requirements described above, including, but not limited to, the requirement for its premises to be located at least 600 feet away from a school, such as TVES. (Cal. Bus. & Prof. Code § 26054(b).)

Moreover, the relevant laws specify that the distance between the premises and a school is to be measured as: "the horizontal distance measured in a straight line from the property line of the school to the closest property line of the lot on which the medicinal cannabis cooperative, collective, dispensary, operator, establishment, or provider is to be located without regard to intervening structures." (Cal. Health & Safety Code § 11362.768(c).) The District's information shows that MCMP's proposed facility will be located *only 56 feet*, measured from property line to property line, from TVES. This is in stark contrast to the "approximately 1,270 feet" noted above. This discrepancy is concerning, especially given that a distance of 1,270 feet creates the illusion that the MCMP premises location would be legally-compliant, as well beyond 600 feet from TVES.

In sum, and based on the above, the District believes that MCMP's premises would, in fact, be subject to the 600-foot setback requirement, and considering the premises would be located only 56 feet from TVES, it would be unlawful to allow MCMP to operate at the current proposed location.

Moreover, in addition to the above, the California Health & Safety Code also provides a 600-foot setback requirement, specifically that "no medical marijuana cooperative, collective, dispensary, operator, establishment, or provider who possesses, cultivates, or distributes medical marijuana... shall be located within a 600-foot radius of a school." (Cal. Health & Safety Code

§ 11362.768(b.) This prohibition specifically applies to a medicinal cannabis cooperative, collective, dispensary, establishment, or provider that is authorized to possess, cultivate or distribute medicinal cannabis and has a storefront or mobile retail outlet. (*Id.* § 11362.768(e).)

To the extent that MCMP intends to have a storefront, this further prohibits its proposed location of only 56 feet from TVES. Furthermore, the County is permitted to adopt ordinances or policies to even further restrict the location or establishment of a medicinal cannabis cooperative, collective, dispensary, establishment, or provider. (*Id.* § 11362.768(f).)

In summary, contrary to the conclusions of the December 14, 2017 Report, MCMP's proposed commercial cannabis manufacturing facility is subject to the legal requirement that such facilities be located at least 600 feet away from a school. Given the proposed location of only 56 feet away from TVES, the current proposed location is unlawful. Further, given the adverse impact drug use has had and continues to have on our students and the school environment, MCMP does not belong directly across the street from Trinity Valley Elementary School. As such, the District once again strongly urges the County Board of Supervisors not to approve the ZR-16-002, MCMP, LLC Zone Reclassification. Although the District desires to work cooperatively with its local community, please be advised that the District will pursue any and all necessary legal action to prohibit MCMP from operating across from TVES, or otherwise challenge any action by the County Board of Supervisors to approve such project.

Thank you for your attention to this correspondence, please do not hesitate to contact me if you would like to discuss this further.

Sincerely,



Jon Ray

Klamath-Trinity Joint Unified School District



Klamath-Trinity Joint Unified School District

P. O. BOX 1308 + HOOPA, HUMBOLDT COUNTY, CALIFORNIA 95546

JON RAY
Superintendent

Telephone (530) 625-5600

FAX (530) 625-5611

Web address: <http://www.ktjUSD.k12.ca.us>

February 13, 2018

Dear Humboldt County Board of Supervisors:

We write in opposition to the Planning Commission's approval of ZR-16-002, MCMP, LLC Zone Reclassification. As concerned citizens of Willow Creek and guardians entrusted with schoolchildren of all ages, the Klamath-Trinity Joint Unified School District ("KTJUSD") is deeply opposed to the proposed rezoning of Key Parcel Number, 522-491-017, which would permit cannabis cultivation and processing. As described in detail below, the proposed rezoning is contrary to the community's, the District's, and the state's compelling interest in deterring drug abuse by schoolchildren.

Current law contains relatively few limitations concerning the cultivation and processing of marijuana. As you know, on November 8, 2016, California voters passed Proposition 64, the "Control, Regulate, and Tax Adult Use of Marijuana Act" ("Act"), which legalized the growth and personal use of marijuana. The Act also included provisions related to the sale, transportation, and taxation of marijuana. For example, the Act prohibits marijuana businesses from being located within 600 feet of schools, day cares, or youth centers. (*See* Cal. Bus. & Prof. Code § 26054.) Likewise, the California Health & Safety Code states in pertinent part:

No medical marijuana cooperative, collective, dispensary, operator, establishment, or provider who possesses, cultivates, or distributes medical marijuana... shall be located within a 600-foot radius of a school. (Cal. Health & Safety Code § 11362.768(b).)

Although authority specific to marijuana is limited, the regulation of other substances and activities through statutes and case law provides useful guidance. For example, regarding alcoholic beverages, the California Department of Alcoholic Beverage Control ("Department") may, in its discretion, license and regulate the sale of alcohol, and may specifically refuse to issue licenses for premises located within 600 feet of schools. (*See* Cal. Bus. & Prof. Code § 23789; *see generally* Cal. Const., Art. XX § 22; Cal. Bus. & Prof. Code § 23051; Cal. Bus. & Prof. Code § 23789.)

Case law illustrates the importance of such restrictions. For instance, in *Weiss v. State Board of Equalization*, the California Supreme Court upheld the denial of an off-sale license at premises within 80 feet of a school, stating that, "a reasonable person could conclude that the sale of liquor on such premises would adversely affect the public welfare and morals." (*Weiss v. State Bd. of Equalization* (Cal. 1953) 40 Cal.2d 772, 775-776; *see also* Cal. Const., Art. XX § 22.) Similarly, the California Court of Appeal in *Donia v. Alcoholic Beverage Control Appeals Board* upheld the Department's denial of a license to a convenience store located near an elementary school in a low-income area, recognizing that, "there is considerable expert evidence of the recognized effects of off-sale outlets on public drinking, the associated police problems and the psychological effect of public drinking on children." (*Donia v. Alcoholic Bev. Control Appeals Bd.* (Cal. App. 1985) 167 Cal.App.3d 588, 596.)

Courts have also discussed the important state interest in deterring drug use by schoolchildren. For example, the United States Supreme Court recognized that deterring drug use by schoolchildren is an,

“important” – indeed, perhaps compelling” interest, reasoning that, “[d]rug abuse can cause severe and permanent damage to the health and well-being of young people.” (*Morse v. Frederick* (“*Morse*”) (2007) 551 U.S. 393, 407.) Specifically, the Court stated:

School years are the time when the physical, psychological, and addictive effects of drugs are most severe. Maturing nervous systems are more critically impaired by intoxicants than mature ones are; childhood losses in learning are lifelong and profound; children grow chemically dependent more quickly than adults, and their record of recovery is depressingly poor. And of course the effects of a drug-infested school are visited not just upon the users, but upon the entire student body and faculty, as the educational process is disrupted. (*Id.*)

The court in *Morse* concluded, “[t]he drug abuse problem among our Nation’s youth has hardly abated... [i]n fact, evidence suggests that it has only grown worse.” (*Id.*)

The Court’s cautionary language in *Morse* is particularly applicable to District students. As you may be aware, in December, 2016, Colorado State University studied drug use among District students.¹ That study revealed alarming and widespread use of marijuana and other substances among the District’s students. For example, the study found that the following students used marijuana in the month prior to the study:

18.6% of Hoopa Valley Elementary School (“HVES”) 7th and 8th grade students;
16.4% of Hoopa Valley High School (“HVHS”) 9th and 10th grade students; and,
32.5% of HVHS 11th and 12th grade students.

Additionally, the study revealed that 36.8% of Hoopa Valley Elementary School Students reported that most of their friends use marijuana.

The study also revealed that District students are likely susceptible to the use and abuse of many other substances. For example, the study found that the following students used alcohol in the month prior to the study:

17.1% of HVES 7th and 8th grade students;
17.1% of HVHS 9th and 10th grade students; and,
29.5% of HVHS 11th and 12th grade students.

The following students had been drunk in the month prior to the study:

8.6% of HVES 7th and 8th grade students;
10.3% of HVHS 9th and 10th grade students; and,
16.7% of HVHS 11th and 12th grade students.

The following students had smoked cigarettes in the month prior to the study:

11.4% of HVES 7th and 8th grade students;
5.1% of HVHS 9th and 10th grade students; and,
13.9% of HVHS 11th and 12th grade students.

The following students used inhalants (glue, gas, sprays, etc.) in the month prior to the study:

10.0% of HVES 7th and 8th grade students;
0.9% of HVHS 9th and 10th grade students; and,

¹ See *Drug and Alcohol Use Among Hoopa Valley Elementary School 7th – 8th Graders, Fall 2016*, CSU: Tri-Ethnic Center for Prevention Research, Dept. of Psychology.

3.8% of HVHS 11th and 12th grade students.

The following students used LSD in the month prior to the study:

1.3% of HVHS 11th and 12th grade students.

The following students used other hallucinogens (peyote, shrooms, etc.) in the month prior to the study:

1.4% of HVES 7th and 8th grade students; and,
2.6% of HVHS 11th and 12th grade students.

The following students used amphetamines (Ritalin, Adderall, etc.) without a doctor's orders in the month prior to the study:

4.3% of HVES 7th and 8th grade students;
1.7% of HVHS 9th and 10th grade students; and,
2.6% of HVHS 11th and 12th grade students.

The following students used crystal meth (ice) in the month prior to the study:

0.9% of HVHS 9th and 10th grade students; and,
1.3% of HVHS 11th and 12th grade students.

The following students used tranquilizers (Valium, Xanax, Klonopin, etc.) without a doctor's order in the month prior to the study:

0.9% of HVHS 9th and 10th grade students; and,
2.6% of HVHS 11th and 12th grade students.

The following students used cocaine (powdered form) in the month prior to the study:

0.9% of HVHS 9th and 10th grade students; and,
3.8% of HVHS 11th and 12th grade students.

The following students used cocaine (crack or freebase) in the month prior to the study:

1.4% of HVES 7th and 8th grade students; and,
0.9% of HVHS 9th and 10th grade students.

The following students used heroin in the month prior to the study:

1.7% of HVHS 9th and 10th grade students.

The following students used narcotics other than heroin (Morphine, Vicodin, Oxycontin, etc.) without a doctor's orders in the month prior to the study:

4.3% of HVHS 9th and 10th grade students; and,
5.1% of HVHS 11th and 12th grade students.

Notably, the percentage of HVES 7th and 8th grade students, the youngest students who participated in the study, who used illegal substances in the one-year period prior to the study was even greater. For example:

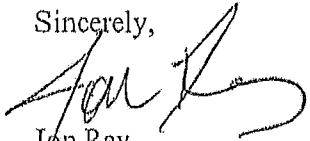
26.1% used alcohol;
18.6% had been drunk;
28.6% used marijuana;
11.4% used inhalants (glue, gas, sprays, etc.);
1.4% used LSD;

- 4.3% used other hallucinogens (peyote, shrooms, etc.);
- 5.7 used amphetamines (Ritalin, Adderall, etc.) without a doctor's order;
- 4.3% used crystal meth (ice);
- 2.9% used tranquilizers (Valium, Xanax, Klonopin, etc.) without a doctor's orders;
- 4.3% used cocaine (powdered form);
- 1.4% used cocaine (crack or freebase);
- 1.4% used heroin; and,
- 4.3% used narcotics other than heroin (Morphine, Vicodin, Oxycontin, etc.) without a doctor's orders

The cultivation of marijuana, or presence of marijuana processing facilities, near District bus stops and other school facilities is harmful to the compelling state interest in deterring drug use by school children. Approval of Zone Reclassification: Assessor Parcel Number 522-491-017, in such close proximity to Klamath-Trinity's school facilities will exacerbate the problem of marijuana use among District students. This location is particularly concerning, as it is directly across the street (56 feet, property line to property line) from Trinity Valley Elementary School. Allowing cultivation of marijuana, or factories processing marijuana, in such close proximity to schoolchildren increases the probability that those children will be exposed to marijuana, and therefore places those children at risk of increased drug use. As a result, we respectfully request the Board of Supervisors reject that project.

Thank you in advance for your consideration. If we can provide any additional information, please do not hesitate to call.

Sincerely,



Jon Ray

Klamath-Trinity Joint Unified School District



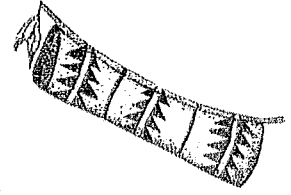
HOOPA VALLEY TRIBAL COUNCIL

Hoopa Valley Tribe

Post Office Box 1348 Hoopa, California 95546

PH (530) 625-4211 · FX (530) 625-4594

www.hoopa-nsn.gov



Chairman Ryan Jackson

February 8, 2018

Humboldt County Board of Supervisors
825 5th Street, Room 111
Eureka, CA 95501

RE: Application Number 10243; Case Numbers ZR-16-002 and SP-16-014

Board of Supervisors:

The Hoopa Valley Tribe (HVT) is adamantly opposed to the change in the zoning of Assessor's Parcel Number 522-142-017 from Highway Service Commercial to Heavy Industrial. This proposed zoning is likely to have detrimental impacts to the source drinking water, salmon fisheries, and cultural resources of the Hupa people.

Zoning changes that allow heavy industrial operations have the potential to adversely affect the domestic drinking water supply for approximately 5000 residents of the Hoopa Valley Indian Reservation and therefore should be denied. Our concerns are the protection of drinking water for the health and safety of our communities while preserving the high-quality waters of the Trinity River and its underlying aquifers.

The HVT is greatly concerned that this proposed change in zoning of Assessor's Parcel Number 522-142-017 from Highway Service Commercial to Heavy Industrial will allow for activities that have the potential to adversely affect the water quality in the surrounding vicinity of the parcel, as well as downstream of the parcel. HVT also asserts that the activities proposed by Mercer Fraser Company on the parcel do not provide adequate control or mitigation measures for this project, and therefore have the potential to cause irreparable damage to the HVT's source drinking water, salmon fisheries, and cultural resources.

Moreover, this parcel lies within the 100-year flood plain for the Trinity River (2017 FEMA FIRM). Any Heavy Industrial activities inundated by a flood have the potential to negatively impact HVT public drinking water. Therefore, again in the interest of public health and safety, and welfare, the Hoopa Valley Tribe is opposed to this zoning change and project.

There is no public policy justification for this zoning change. There is an ample supply of suitable property located within Humboldt County that is currently zoned Heavy Industrial to which the Applicant may avail themselves and this project. The risks for harmful impacts to HVT's public drinking water source for 5000 residents, is not acceptable, and far outweigh the necessity and justification for a zoning change on the Applicant's parcel.

Thank you for your consideration of our submittal.

Respectably,

A handwritten signature in black ink, appearing to read 'Ryan Jackson', written over a horizontal line.

Ryan Jackson
Hoopa Valley Tribal Chairman



March 9, 2018

John Ford
Planning Director
County of Humboldt Planning and Building Department
3015 H Street
Eureka, CA 95501

RE: APPS# 10243 – MCMP LLC (in Willow Creek)

Dear Mr. Ford,

The Willow Creek Community Services District (WCCSD) would like some clarification regarding the MCMP LLC project (APPS# 10243) in Willow Creek.

The WCCSD received a project referral for this project in August of 2016. Manager O’Gorman brought the referral to the WCCSD board’s attention at their January 26th, 2017 board meeting. The Board then directed the manager to write a letter to the Planning Department regarding the District’s opposition to the project. I believe you have a copy of this letter (dated February 3, 2017).

A few months after submitting the letter to planning, Manager O’Gorman called and spoke with planner Michelle Nielsen regarding the project. She expressed that the project was probably going to be undergoing some changes and would probably be sent out to a re-referral.

On December 4th, 2017, the District received a single page notice in the mail that the project was going to be on the Planning Commission agenda on December 14th, 2017. Manager O’Gorman attended this meeting and conveyed the opposition expressed in the letter to the commission board. The commission then proceeded to approve the project.

Manager O’Gorman then presented the status of the project to the WCCSD Board of Directors. The Board directed Ms. O’Gorman to write this letter to the County, asking for the following clarifications and explanations.

It is my understanding that the County sends out project referrals to various agencies to obtain their comments on projects. If an agency provides a comment letter, how are the comments handled by the Planning Department? The District was surprised that a return letter or phone call was not received, expressing that our letter was received, the concerns were heard, and the planning department would

work to mitigate them. Therefore, please explain at this time, the steps that the Planning Department took, if any, to mitigate the concerns listed in the WCCSD letter of February 3rd, 2017.

Please explain to the best of your knowledge, why it appeared that the Planning Commission didn't even discuss the issue of the District's opposition to the project. The District's main opposition was due to the fact the project is near an important recreational area in our community. After I spoke, expressing this concern of the District, the term recreation was not brought up once by any planning commissioner during discussion. A few commissioners did ask questions regarding if the project had been modified per the District's concerns. Given neither the planning department, nor the applicant, contacted the District to discuss ways to mitigate our concerns; I can strongly say that this was not the case. Unfortunately, the planning commission did not feel the need to open back up the public comment to let me express this point.

I would add that it appeared, if I had not been present at the meeting, nor my father who also spoke against the project, the agenda item would have been put on the consent agenda. Is this correct? If so, this is very concerning. Given the District had taken the time to discuss the project at our board meeting and taken the time to send a letter of opposition, the Planning Commission should spend some time discussing the pros and cons of the project as it pertains to our District. It felt that the project was simply going through the steps, but was already a done deal.

While we understand that the Willow Creek is part of the unincorporated areas of Humboldt County, the Willow Creek Community Services District takes great pride in our little town.

The WCCSD would appreciate your response to these questions. Please feel free to contact me at anytime to discuss.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan O'Gorman". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Susan O'Gorman
General Manager



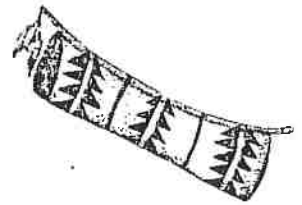
HOOPA VALLEY TRIBAL COUNCIL

Hoopa Valley Tribe

Post Office Box 1348 Hoopa, California 95546

PH (530) 625-4211 · FX (530) 625-4594

www.hoopa-nsn.gov



Chairman Ryan Jackson

February 8, 2018

BOARD OF SUPERVISORS
FEB 13 2018

522-142-017



Humboldt County Board of Supervisors
825 5th Street, Room 111
Eureka, CA 95501

RE: Application Number 10243; Case Numbers ZR-16-002 and SP-16-014

Board of Supervisors:

The Hoopa Valley Tribe (HVT) is adamantly opposed to the change in the zoning of Assessor's Parcel Number 522-142-017 from Highway Service Commercial to Heavy Industrial. This proposed zoning is likely to have detrimental impacts to the source drinking water, salmon fisheries, and cultural resources of the Hupa people.

Zoning changes that allow heavy industrial operations have the potential to adversely affect the domestic drinking water supply for approximately 5000 residents of the Hoopa Valley Indian Reservation and therefore should be denied. Our concerns are the protection of drinking water for the health and safety of our communities while preserving the high-quality waters of the Trinity River and its underlying aquifers.

The HVT is greatly concerned that this proposed change in zoning of Assessor's Parcel Number 522-142-017 from Highway Service Commercial to Heavy Industrial will allow for activities that have the potential to adversely affect the water quality in the surrounding vicinity of the parcel, as well as downstream of the parcel. HVT also asserts that the activities proposed by Mercer Fraser Company on the parcel do not provide adequate control or mitigation measures for this project, and therefore have the potential to cause irreparable damage to the HVT's source drinking water, salmon fisheries, and cultural resources.

Moreover, this parcel lies within the 100-year flood plain for the Trinity River (2017 FEMA FIRM). Any Heavy Industrial activities inundated by a flood have the potential to negatively impact HVT public drinking water. Therefore, again in the interest of public health and safety, and welfare, the Hoopa Valley Tribe is opposed to this zoning change and project.

There is no public policy justification for this zoning change. There is an ample supply of suitable property located within Humboldt County that is currently zoned Heavy Industrial to which the Applicant may avail themselves and this project. The risks for harmful impacts to HVT's public drinking water source for 5000 residents, is not acceptable, and far outweigh the necessity and justification for a zoning change on the Applicant's parcel.

Thank you for your consideration of our submittal.

Respectably,

A handwritten signature in black ink, appearing to read 'Ry - Jackson', written over a horizontal line.

Ryan Jackson
Hoopa Valley Tribal Chairman



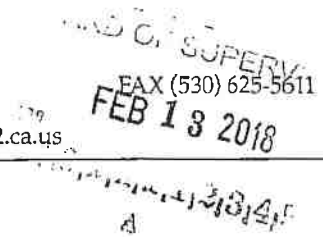
Klamath-Trinity Joint Unified School District

P. O. BOX 1308 + HOOPA, HUMBOLDT COUNTY, CALIFORNIA 95546

JON RAY
Superintendent

Telephone (530) 625-5600

Web address: <http://www.ktjUSD.k12.ca.us>



February 13, 2018

Dear Humboldt County Board of Supervisors:

We write in opposition to the Planning Commission's approval of ZR-16-002, MCMP, LLC Zone Reclassification. As concerned citizens of Willow Creek and guardians entrusted with schoolchildren of all ages, the Klamath-Trinity Joint Unified School District ("KTJUSD") is deeply opposed to the proposed rezoning of Key Parcel Number, 522-491-017, which would permit cannabis cultivation and processing. As described in detail below, the proposed rezoning is contrary to the community's, the District's, and the state's compelling interest in deterring drug abuse by schoolchildren.

Current law contains relatively few limitations concerning the cultivation and processing of marijuana. As you know, on November 8, 2016, California voters passed Proposition 64, the "Control, Regulate, and Tax Adult Use of Marijuana Act" ("Act"), which legalized the growth and personal use of marijuana. The Act also included provisions related to the sale, transportation, and taxation of marijuana. For example, the Act prohibits marijuana businesses from being located within 600 feet of schools, day cares, or youth centers. (*See* Cal. Bus. & Prof. Code § 26054.) Likewise, the California Health & Safety Code states in pertinent part:

No medical marijuana cooperative, collective, dispensary, operator, establishment, or provider who possesses, cultivates, or distributes medical marijuana... shall be located within a 600-foot radius of a school. (Cal. Health & Safety Code § 11362.768(b).)

Although authority specific to marijuana is limited, the regulation of other substances and activities through statutes and case law provides useful guidance. For example, regarding alcoholic beverages, the California Department of Alcoholic Beverage Control ("Department") may, in its discretion, license and regulate the sale of alcohol, and may specifically refuse to issue licenses for premises located within 600 feet of schools. (*See* Cal. Bus. & Prof. Code § 23789; *see generally* Cal. Const., Art. XX § 22; Cal. Bus. & Prof. Code § 23051; Cal. Bus. & Prof. Code § 23789.)

Case law illustrates the importance of such restrictions. For instance, in *Weiss v. State Board of Equalization*, the California Supreme Court upheld the denial of an off-sale license at premises within 80 feet of a school, stating that, "a reasonable person could conclude that the sale of liquor on such premises would adversely affect the public welfare and morals." (*Weiss v. State Bd. of Equalization* (Cal. 1953) 40 Cal.2d 772, 775-776; *see also* Cal. Const., Art. XX § 22.) Similarly, the California Court of Appeal in *Donia v. Alcoholic Beverage Control Appeals Board* upheld the Department's denial of a license to a convenience store located near an elementary school in a low-income area, recognizing that, "there is considerable expert evidence of the recognized effects of off-sale outlets on public drinking, the associated police problems and the psychological effect of public drinking on children." (*Donia v. Alcoholic Bev. Control Appeals Bd.* (Cal. App. 1985) 167 Cal.App.3d 588, 596.)

Courts have also discussed the important state interest in deterring drug use by schoolchildren. For example, the United States Supreme Court recognized that deterring drug use by schoolchildren is an,

“important – indeed, perhaps compelling” interest, reasoning that, “[d]rug abuse can cause severe and permanent damage to the health and well-being of young people.” (*Morse v. Frederick* (“*Morse*”) (2007) 551 U.S. 393, 407.) Specifically, the Court stated:

School years are the time when the physical, psychological, and addictive effects of drugs are most severe. Maturing nervous systems are more critically impaired by intoxicants than mature ones are; childhood losses in learning are lifelong and profound; children grow chemically dependent more quickly than adults, and their record of recovery is depressingly poor. And of course the effects of a drug-infested school are visited not just upon the users, but upon the entire student body and faculty, as the educational process is disrupted. (*Id.*)

The court in *Morse* concluded, “[t]he drug abuse problem among our Nation’s youth has hardly abated... [i]n fact, evidence suggests that it has only grown worse.” (*Id.*)

The Court’s cautionary language in *Morse* is particularly applicable to District students. As you may be aware, in December, 2016, Colorado State University studied drug use among District students.¹ That study revealed alarming and widespread use of marijuana and other substances among the District’s students. For example, the study found that the following students used marijuana in the month prior to the study:

18.6% of Hoopa Valley Elementary School (“HVES”) 7th and 8th grade students;
16.4% of Hoopa Valley High School (“HVHS”) 9th and 10th grade students; and,
32.5% of HVHS 11th and 12th grade students.

Additionally, the study revealed that 36.8% of Hoopa Valley Elementary School Students reported that most of their friends use marijuana.

The study also revealed that District students are likely susceptible to the use and abuse of many other substances. For example, the study found that the following students used alcohol in the month prior to the study:

17.1% of HVES 7th and 8th grade students;
17.1% of HVHS 9th and 10th grade students; and,
29.5% of HVHS 11th and 12th grade students.

The following students had been drunk in the month prior to the study:

8.6% of HVES 7th and 8th grade students;
10.3% of HVHS 9th and 10th grade students; and,
16.7% of HVHS 11th and 12th grade students.

The following students had smoked cigarettes in the month prior to the study:

11.4% of HVES 7th and 8th grade students;
5.1% of HVHS 9th and 10th grade students; and,
13.9% of HVHS 11th and 12th grade students.

The following students used inhalants (glue, gas, sprays, etc.) in the month prior to the study:

10.0% of HVES 7th and 8th grade students;
0.9% of HVHS 9th and 10th grade students; and,

¹ See *Drug and Alcohol Use Among Hoopa Valley Elementary School 7th – 8th Graders, Fall 2016*, CSU: Tri-Ethnic Center for Prevention Research, Dept. of Psychology.

3.8% of HVHS 11th and 12th grade students.

The following students used LSD in the month prior to the study:

1.3% of HVHS 11th and 12th grade students.

The following students used other hallucinogens (peyote, shrooms, etc.) in the month prior to the study:

1.4% of HVES 7th and 8th grade students; and,
2.6% of HVHS 11th and 12th grade students.

The following students used amphetamines (Ritalin, Adderall, etc.) without a doctor's orders in the month prior to the study:

4.3% of HVES 7th and 8th grade students;
1.7% of HVHS 9th and 10th grade students; and,
2.6% of HVHS 11th and 12th grade students.

The following students used crystal meth (ice) in the month prior to the study:

0.9% of HVHS 9th and 10th grade students; and,
1.3% of HVHS 11th and 12th grade students.

The following students used tranquilizers (Valium, Xanax, Klonopin, etc.) without a doctor's order in the month prior to the study:

0.9% of HVHS 9th and 10th grade students; and,
2.6% of HVHS 11th and 12th grade students.

The following students used cocaine (powdered form) in the month prior to the study:

0.9% of HVHS 9th and 10th grade students; and,
3.8% of HVHS 11th and 12th grade students.

The following students used cocaine (crack or freebase) in the month prior to the study:

1.4% of HVES 7th and 8th grade students; and,
0.9% of HVHS 9th and 10th grade students.

The following students used heroin in the month prior to the study:

1.7% of HVHS 9th and 10th grade students.

The following students used narcotics other than heroin (Morphine, Vicodin, Oxycontin, etc.) without a doctor's orders in the month prior to the study:

4.3% of HVHS 9th and 10th grade students; and,
5.1% of HVHS 11th and 12th grade students.

Notably, the percentage of HVES 7th and 8th grade students, the youngest students who participated in the study, who used illegal substances in the one-year period prior to the study was even greater. For example:

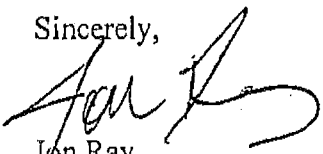
26.1% used alcohol;
18.6% had been drunk;
28.6% used marijuana;
11.4% used inhalants (glue, gas, sprays, etc.);
1.4% used LSD;

- 4.3% used other hallucinogens (peyote, shrooms, etc.);
- 5.7 used amphetamines (Ritalin, Adderall, etc.) without a doctor's order;
- 4.3% used crystal meth (ice);
- 2.9% used tranquilizers (Valium, Xanax, Klonopin, etc.) without a doctor's orders;
- 4.3% used cocaine (powdered form);
- 1.4% used cocaine (crack or freebase);
- 1.4% used heroin; and,
- 4.3% used narcotics other than heroin (Morphine, Vicodin, Oxycontin, etc.) without a doctor's orders

The cultivation of marijuana, or presence of marijuana processing facilities, near District bus stops and other school facilities is harmful to the compelling state interest in deterring drug use by school children. Approval of Zone Reclassification: Assessor Parcel Number 522-491-017, in such close proximity to Klamath-Trinity's school facilities will exacerbate the problem of marijuana use among District students. This location is particularly concerning, as it is directly across the street (56 feet, property line to property line) from Trinity Valley Elementary School. Allowing cultivation of marijuana, or factories processing marijuana, in such close proximity to schoolchildren increases the probability that those children will be exposed to marijuana, and therefore places those children at risk of increased drug use. As a result, we respectfully request the Board of Supervisors reject that project.

Thank you in advance for your consideration. If we can provide any additional information, please do not hesitate to call.

Sincerely,



Jon Ray

Klamath-Trinity Joint Unified School District

Nielsen, Michelle

From: Miller, John
Sent: Wednesday, November 14, 2018 8:15 AM
To: Nielsen, Michelle
Subject: FW: 5th District hash lab project

I don't think that this is countywide rezone. It seems to be exclusively related to the Mercer Fraser project

From: Wilson, Mike
Sent: Tuesday, November 13, 2018 11:52 PM
To: Ford, John <JFord@co.humboldt.ca.us>
Cc: Miller, John <jpmiller@co.humboldt.ca.us>
Subject: Fwd: 5th District hash lab project

FYI.
M

Mike Wilson P.E.
Humboldt County Supervisor, District 3
707.476.2393

Sent from my iPad

Begin forwarded message:

From: Vivienne Orcutt <viorcutt@gmail.com>
Date: November 1, 2018 at 3:11:08 PM PDT
To: JFord@co.humboldt.ca.us
Cc: khayes@co.humboldt.ca.us, "Bohn, Rex" <RBohn@co.humboldt.ca.us>, "Fennell, Estelle" <EFennell@co.humboldt.ca.us>, Mike Wilson <Mike.Wilson@co.humboldt.ca.us>, Ryan Sundberg <rsundberg@co.humboldt.ca.us>, "Bass, Virginia" <VBass@co.humboldt.ca.us>, "Stephen S. Madrone" <smadrone@mattolesalmon.org>, "Patrick O'Brien" <wcpaac@gmail.com>, Jennifer Kalt <jkalt@humboldtcounty.org>, reporters@times-standard.com, Journal <newsroom@northcoastjournal.com>, Jon Ray <jray@ktjUSD.k12.ca.us>
Subject: Re: 5th District hash lab project

All-

I submitted an email and have never received a response to any of my inquiries. I would like to submit a request to be part of the record of the Planning hearing and Humboldt County Board of Supervisors record re: Humboldt County rezoning and permits

I understand that the County Planning Director has waved away any concerns about industrial uses other than the "cannabis extraction" by saying it would require a Conditional Use Permit. This seems pretty premature and greed driven. Not only have you failed to address community health issues but environmental studies as well. Rather, fast tracking marijuana permits that threaten California Health & Safety Codes, ESA federally protected species, and drinking water regulations, and school safety. There are several loopholes in the

cannabis ordinance that need to closed. By lessening the 600' buffer from schools, parks, ceremonial sites, etc.in cannabis extraction. Humboldt County will in fact drive our at-risk communities further into despair. Which will ultimately impact social services, hospitals, and law enforcement services in the "Eureka Community" as well.

The fight to protect our environment and Humboldt County Indigenous homelands has no boundaries. There are many environmental and destructive issues that face our community, and it would be great if Humboldt County did not further complicate those matters by lessening cannabis extraction restrictions. The mold issue at the KTJUSD has shut down several wings and classrooms to where we are experiencing major school over crowding issues as well. As a result, we have several indigenous students that attend Trinity Valley Elementary School. The stress and fear that these students anticipate as a result of the dangerous and volatile hash lab operation, marijuana cartel staff, air pollution, and product traffic being located directly across the street from a school is both morally and ethically wrong. The Fifth District has expressed several concerns over the safety and forest fire issues. Most Parents are looking to pull their children from Trinity Valley School if the Board of Supervisors continues to look the other way and fail to do what is right. We have a lot of questions and would like some answers to what school alternatives that will be provided for students that will be pulled from Trinity Valley Elementary School. Will Humboldt County provide busing to McKinleyville area schools for the children? Will there be new water treatment facilities built for the eastern Humboldt? Will drinking water be provided for each home? Jobs for displaced staff at Trinity Valley? Plan to subsidize and address killing off the Humboldt County fishery? Why BOS continues to deny eastern Humboldt water (turning away HC 50,000 af water contract) in letters to the Bureau of Reclamation?

Next, my children attend Trinity Valley Elementary School and I have several letters from those students. I'm not sure how we will get them to each of you? We are very familiar with the three defendants charged with murder after manufacturing cannabis using a volatile solvent in Rio Dell. The fear that children and adults are experiencing in eastern is real because services are virtually non-existent.

The Hoopa Valley Tribe has consulted with CA Water Resources Department and a staffer from the California Native American Heritage Commission (re: CEQA and Title 18). The Water Resources Department is listed as an agency Humboldt County will work with on implementing the marijuana ordinance in the County's CEQA report.

Also, Title 18 requires counties to consult with tribes on County Plans, which primarily focus on land use and zoning by counties. I am still researching whether the ordinance is an amendment of Humboldt County's Plan of 2012, in which case Title 18 would apply. Our attorney called the Heritage Commission about Title 18 to get their input on whether any land use or zoning ordinance activity of a county triggers Title 18. In Humboldt County's general plan, which was passed as a draft in 2012, the County failed to consult with any of the Tribes at all, demonstrating a troubling pattern of failure to consult.

It is our request that the Planning Commission and HCBOS reject this Mercer-Frasier project and rezoning to protect consumptive drinking water, the health of safety of eastern Humboldt. Please close the loopholes and shut the project down. Please don't make our Paradise a wasteland. Things are bad enough already.

Thank you,

Vivienna Orcutt
Hoopa Valley Tribe

On Mon, Feb 26, 2018 at 2:10 PM Vivienna Orcutt <viorcutt@gmail.com> wrote:

I understand that the County Planning Director has waved away any concerns about industrial uses other than the "cannabis extraction" by saying it would require a Conditional Use Permit. This seems pretty premature and greed driven. Not only have you failed to address community health issues but environmental studies as well. Rather, fast tracking marijuana permits that threaten California Health & Safety Codes, ESA federally protected species, and drinking water regulations, and school safety. There are several loopholes in the cannabis ordinance that need to be closed. By lessening the 600' buffer from schools, parks, ceremonial sites, etc. cannabis extraction. Humboldt County will in fact drive our at-risk communities further into despair. Which will ultimately impact social services, hospitals, and law enforcement services in the "Eureka Community" as well.

The fight to protect our environment and Humboldt County Indigenous homelands has no boundaries. There are many environmental and destructive issues that face our community, and it would be great if Humboldt County did not further complicate those matters by lessening cannabis extraction restrictions. The mold issue at the KTJUSD has shut down several wings and classrooms to where we are experiencing major school over crowding issues as well. As a result, we have several indigenous students that attend Trinity Valley Elementary School. The stress and fear that these students anticipate as a result of the dangerous and volatile hash lab operation, marijuana cartel staff, air pollution, and product traffic being located directly across the street from a school is both morally and ethically wrong. The Fifth District has expressed several concerns over the safety and forest fire issues. Most Parents are looking to pull their children from Trinity Valley School if the Board of Supervisors continues to look the other way and fail to do what is right. We have a lot of questions and would like some answers to what school alternatives that will be provided for students that will be pulled from Trinity Valley Elementary School. Will Humboldt County provide busing to McKinleyville area schools for the children? Will there be new water treatment facilities built for the eastern Humboldt? Will drinking water be provided for each home? Jobs for displaced staff at Trinity Valley? Plan to subsidize and address killing off the Humboldt County fishery? Why BOS continues to deny eastern Humboldt water (turning away HC 50,000 of water contract) in letters to the Bureau of Reclamation?

Next, my children attend Trinity Valley Elementary School and I have several letters from those students. I'm not sure how we will get them to each of you? We are very familiar with the three defendants charged with murder after manufacturing cannabis using a volatile solvent in Rio Dell. The fear that children and adults are experiencing in eastern is real because services are virtually non-existent.

It is our request that the Planning Commission and HCBOS reject this Mercer-Frasier project and rezoning to protect consumptive drinking water, the health of safety of eastern Humboldt. Please close the loopholes and shut the project down. Please don't make our Paradise a wasteland. Things are bad enough already.

Thank you,
Vivienna Orcutt.

Nielsen, Michelle

From: Ford, John
Sent: Monday, February 26, 2018 6:16 PM
To: Nielsen, Michelle
Subject: FW: 5th District hash lab project
Attachments: IMG_5535.JPG; Admin Scan_20180226_124750.pdf

Please place this in the file, and make sure it is attached to the Board Report.

Thanks

John



John H. Ford
Director
Planning and Building Department
707.268.3738

From: Vivien Orcutt [mailto:viorcutt@gmail.com]
Sent: Monday, February 26, 2018 2:11 PM
To: Ford, John
Cc: Hayes, Kathy; Bohn, Rex; Fennell, Estelle; Wilson, Mike; Sundberg, Ryan; Bass, Virginia
Subject: 5th District hash lab project

I understand that the County Planning Director has waved away any concerns about industrial uses other than the "cannabis extraction" by saying it would require a Conditional Use Permit. This seems pretty premature and greed driven. Not only have you failed to address community health issues but environmental studies as well. Rather, fast tracking marijuana permits that threaten California Health & Safety Codes, ESA federally protected species, and drinking water regulations, and school safety. There are several loopholes in the cannabis ordinance that need to be closed. By lessening the 600' buffer from schools, parks, ceremonial sites, etc.in cannabis extraction. Humboldt County will in fact drive our at-risk communities further into despair. Which will ultimately impact social services, hospitals, and law enforcement services in the "Eureka Community" as well.

The fight to protect our environment and Humboldt County Indigenous homelands has no boundaries. There are many environmental and destructive issues that face our community, and it would be great if Humboldt County did not further complicate those matters by lessening cannabis extraction restrictions. The mold issue at the KTJUSD has shut down several wings and classrooms to where we are experiencing major school overcrowding issues as well. As a result, we have several indigenous students that attend Trinity Valley Elementary School. The stress and fear that these students anticipate as a result of the dangerous and volatile hash lab operation, marijuana cartel staff, air pollution, and product traffic being located directly across the street from a school is both morally and ethically wrong. The Fifth District has expressed several concerns over the safety and forest fire issues. Most Parents are looking to pull their children from Trinity Valley School if the Board of Supervisors continues to look the other way and fail to do what is right. We have a lot of questions and would like some answers to what school alternatives that will be provided for students that will be pulled from Trinity Valley Elementary School. Will Humboldt County provide busing to McKinleyville area schools for the

children? Will there be new water treatment facilities built for the eastern Humboldt? Will drinking water be provided for each home? Jobs for displaced staff at Trinity Valley? Plan to subsidize and address killing off the Humboldt County fishery? Why BOS continues to deny eastern Humboldt water (turning away HC 50,000 af water contract) in letters to the Bureau of Reclamation?

Next, my children attend Trinity Valley Elementary School and I have several letters from those students. I'm not sure how we will get them to each of you? We are very familiar with the three defendants charged with murder after manufacturing cannabis using a volatile solvent in Rio Dell. The fear that children and adults are experiencing in eastern is real because services are virtually non-existent.

It is our request that the Planning Commission and HCBOS reject this Mercer-Frasier project and rezoning to protect consumptive drinking water, the health of safety of eastern Humboldt. Please close the loopholes and shut the project down. Please don't make our Paradise a wasteland. Things are bad enough already.

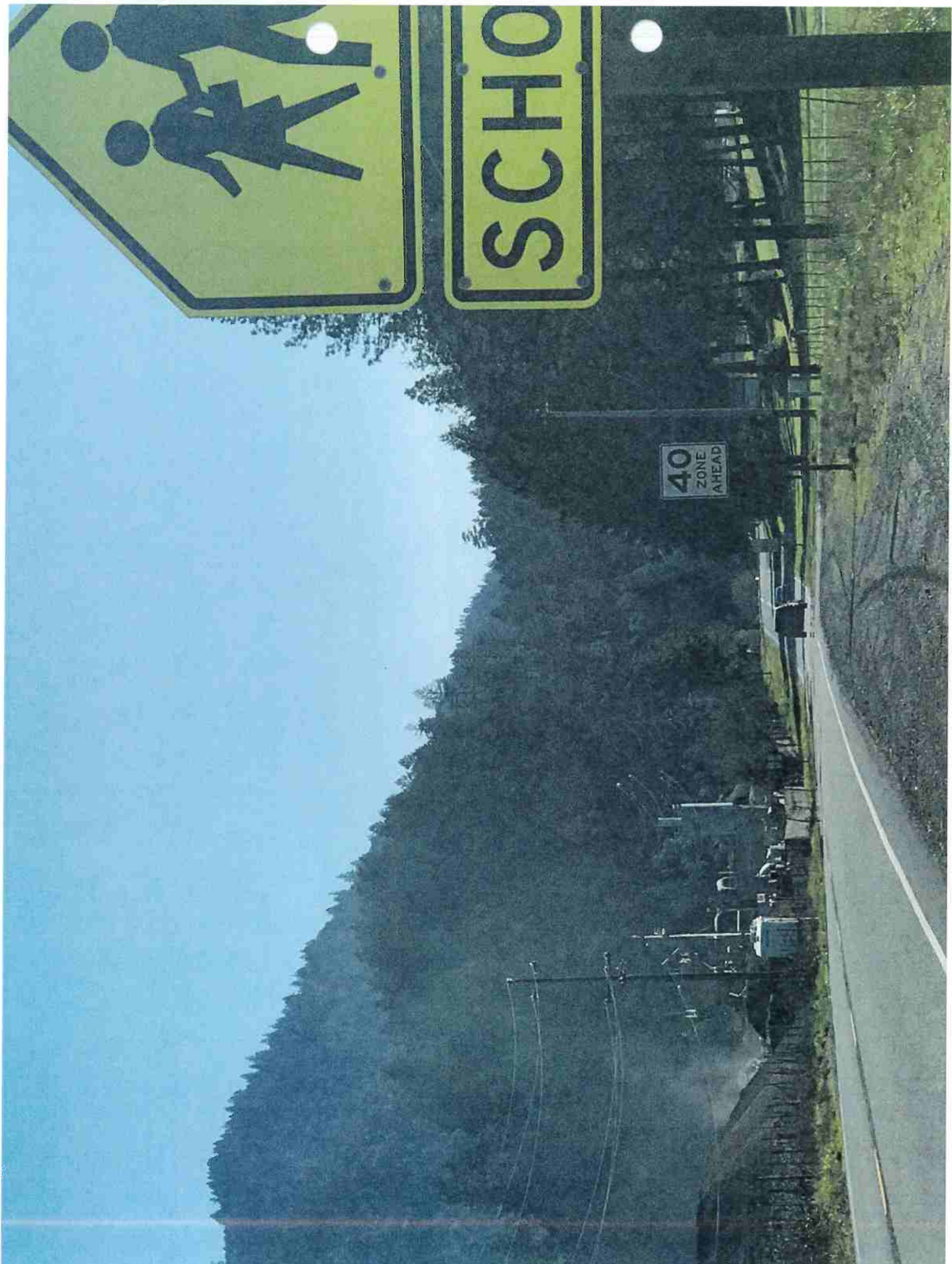
Thank you,

Vivienna Orcutt.



SCHO

40
ZONE
AHEAD



Nielsen, Michelle

From: Ford, John
Sent: Thursday, December 21, 2017 7:31 AM
To: Nielsen, Michelle
Subject: FW: Comments for Planning Commission on Proposed Cannabis Plant in Willow Creek

Include this as an attachment to the Board Report. (Received after the PC meeting.)

John



John H. Ford
Director
Planning and Building Department
707.268.3738

From: Sundberg, Ryan
Sent: Wednesday, December 20, 2017 4:26 PM
To: Ford, John
Cc: Hayes, Kathy; oharajp47@yahoo.com
Subject: Fwd: Comments for Planning Commission on Proposed Cannabis Plant in Willow Creek

Hello Director Ford,
I received this email today. Can you add this to the public comment on the Mercer Fraiser project on Hwy 96.
Thank you,
Ryan Sundberg

Get [Outlook for iOS](#)

From: Joe O'Hara <oharajp47@yahoo.com>
Sent: Wednesday, December 20, 2017 4:18 PM
Subject: Comments for Planning Commission on Proposed Cannabis Plant in Willow Creek
To: Sundberg, Ryan <rsundberg@co.humboldt.ca.us>

Humboldt Planning Commission

Dear Sirs,

I'm member of the board of the Willow Creek Community Services District, but I'm writing this as a concerned resident of Willow Creek.

I oppose the plans by Mercer Fraser Co. to change zoning laws to allow them to put a cannabis processing plant on the shoreline of the Trinity River, near our health clinic, and directly across a two lane road from the Trinity Valley Elementary School.

I'm concerned that the proposed cannabis processing plant could pollute the river which would affect fish and people who live by the river, and I'm concerned about the possible effects of the proposed processing plant on the elementary school and health clinic.

I would like to ask the Planning Commission to enforce our current zoning laws and would ask them to help stop any plans to put a cannabis processing plant next to the elementary school and river.

Thank You,

Joseph O'Hara
Willow Creek