

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; Meeting on _____, 2022

Resolution No. 22-___ Resolution of the Board of Supervisors of the County of Humboldt ADOPTING FINDINGS OF FACT, CONSIDERING THE ADDENDUM TO A PREVIOUSLY ADOPTED MITIGATIVE NEGATIVE DECLARATION PREPARED FOR THE PROJECT PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, APPROVING THE APPEAL FOR RECORD NO. PLN-11212-CUP AND APPROVING THE MDRV REALTY HOLDINGS LLC CONDITIONAL USE PERMIT RECORD NO. PLN-11212-CUP.

WHEREAS, Humboldt County adopted the Commercial Medical Marijuana Land Use (CMMLUO) Ordinance on September 13, 2016, after adopting a Mitigated Negative Declaration finding that all potential impacts associated with implementation of the ordinance had been reduced to a less than significant level; and

WHEREAS, MDRV Realty Holdings, LLC submitted an application and evidence in support of approving a Conditional Use Permit for the continued operation of an existing 14,450 square feet of outdoor commercial cannabis cultivation, 3,600 square feet of mixed-light commercial cannabis cultivation, 1,480 square feet of ancillary propagation space, and drying activities; and a Special Permit for the approval of the continued use and maintenance of a spring diversion on-site; and a Special Permit for the restoration work within a streamside management area; and

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

WHEREAS, on May 5, 2022, the Planning Commission adopted a Resolution which did the following:

1. Considered the Addendum to the Mitigative Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance that was prepared for the MDRV Realty Holdings, LLC project; and
2. Found based on the submitted substantial evidence that the proposed project complies with the General Plan and Zoning Ordinance and made all findings for approval; and
3. Approved the Conditional Use Permit under record No. PLN-11212-CUP as recommended and conditioned by staff with an additional condition number 15 as follows:

The applicant shall have a Road Evaluation Report prepared by a licensed Civil Engineer, in order to assess the access roads and recommend improvements for the roads, and shall submit to Planning Division. The applicant shall be required to complete 100% of the improvements recommended within the RER prior to being able to continue cultivating at the site.

WHEREAS, Brandon Mohan, representing MDRV Realty Holdings, LLC (“Appellant”) on May 19, 2022, filed an appeal in accordance with the Appeal Procedures specified in Humboldt County Code Section 312-13 et seq.; and

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

WHEREAS, the Board of Supervisors closed the public hearing on June 13, 2022; and adopted the motion to approve the appeal, and to approve the Conditional Use Permit with the revised conditions of approval.

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

1. **FINDING:** **Project Description:** The application is a Conditional Use Permit for 14,450 sf of existing outdoor & 3,600 sf of existing mixed-light cannabis cultivation with 1,480 sf of ancillary propagation area. The proposed project includes a Special Permit for the relocation of a historic cultivation outside of a streamside management area. Water for irrigation is provided by a spring diversion (POD 2 under Water Right Certificate H100730), and a Special Permit is being requested to approve the continued use and maintenance of the spring diversion. Annual water usage is estimated at 150,000 gallons (7.68 gal/sf/yr). There is a total of 110,000 gallons of existing water storage on-site and 43,000 additional water storage is proposed for a total of 153,000 gallons. An additional Special Permit is being requested to reduce the 600-foot setback to public lands (SRNF), to approximately 497 feet.

EVIDENCE: a) Project File: PLN-11212-CUP

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

- EVIDENCE:**
- a) Addendum Prepared for the proposed project.
 - b) The proposed project does not present substantial changes that would require major revisions to the previous MND. No new information of substantial importance that was not known and could not be known at the time was presented as described by §15162(c) of CEQA Guidelines.
 - c) Water Right Certificate H100730, allowing the right to divert and use water for irrigation from an on-site spring diversion (POD2).
 - d) A Site Management Plan was prepared by Mother Earth Engineering, to address project compliance with the State Water Board Order WQ-2019-0001-DWQ.
 - e) A Timber Conversion Report prepared by Blair Forestry Consulting, which evaluates a total of 1.15 acres of pre-2016 timber conversion on two adjacent parcels APN's: 208-241-006 & 208-241-007.
 - f) A Streambed Alteration Agreement (SAA No. EPIMS-HUM-15839-R1) has been obtained with CDFW for instream work needed on-site. The project is conditioned to obtain an approved Restoration Plan from CDFW for the restoration work within a streamside management area.
 - g) The project is within the Bear River Band tribes' ancestral aboriginal territories. The project was referred to the Bear River Band THPO on April 25, 2019. The applicant has obtained a Cultural Resource Survey (CRS) for the project site, which was prepared by Dimitra Zalarvis-Chase, M.A., RPA, with DZC Archaeology & Cultural Resource Management, dated December 2019. The CRS states that the archaeological survey was negative for cultural resources, and that there will be no adverse effects or changes to any historic resources on the project site. The project is conditioned to adhere to inadvertent discovery protocols.
 - h) A Road Evaluation Report (RER) was prepared for the access route to the project site from Hwy 36, which includes photos and a route map showing photo locations taken at pinch point areas on the road. The RER designates the access roads County Line Creek Road and Salyer Mad River Road (shown as Eight Mile Ridge Road on the County GIS) as being developed to the equivalent of a category 4 standard, and it has been determined that the access route meets the functional capacity for the project's needs.

The applicant will be required to enter into a Road Maintenance Association for shared roads, and shall adhere to and implement the recommendations for road improvements included in all engineered road evaluations prepared for the access roads.

FINDINGS FOR CONDITIONAL USE PERMIT AND SPECIAL PERMITS

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

- EVIDENCE**
- a) General agriculture is a use type permitted in the Residential Agriculture (RA) land use designation. The existing cannabis cultivation, an agricultural product, is within land planned and zoned for agricultural purposes. The project is consistent with, and complimentary to, the Open Space Plan and its Open Space Action Program.
 - b) The applicant is applying for a Special Permit to allow the continued use of an on-site spring diversion (POD2) for agricultural purposes under Water Right Certificate H100730.
 - c) The applicant is applying for a Special Permit to approve the restoration work within a streamside management area on-site.

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

- EVIDENCE**
- a) The Forest Recreation or FR Zone is intended to be applied to areas of the County in which general agriculture is a desirable use.
 - b) All general agricultural uses are principally permitted in the FR zone.
 - c) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 43,560 square feet of existing outdoor cannabis and up to 22,000 square feet of existing mixed-light cannabis on a parcel zoned FR over 1 acres subject to approval of a Conditional Use Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for 14,450 square feet of outdoor and 3,600 square feet of mixed-light cultivation on a 40-acre parcel is consistent with this and with the cultivation area verification prepared by the County.

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

- EVIDENCE**
- a) The CMMLUO allows existing cannabis cultivation to be permitted in areas zoned FR (HCC 314-55.4.8.2.2).
 - b) The subject parcel has been determined to be one legal parcel (lot 132) as shown on Record of Survey in Book 26 of Surveys page 135.
 - c) The project will obtain water from a permitted diversionary water source for pre-existing cannabis cultivation under Water Right Certificate H100730.
 - d) A Road Evaluation Report (RER) was prepared for the access route to the project site from Hwy 36, which includes photos and a route map showing photo locations taken at pinch point areas on the road. The RER designates

the access roads County Line Creek Road and Salyer Mad River Road (shown as Eight Mile Ridge Road on the County GIS) as being developed to the equivalent of a category 4 standard, and it has been determined that the access route meets the functional capacity for the project's needs.

The applicant will be required to enter into a Road Maintenance Association for shared roads, and shall adhere to and implement the recommendations for road improvements included in all engineered road evaluations prepared for the access roads.

- e) A Timber Conversion Report prepared by Blair Forestry Consulting, which evaluates a total of 1.15 acres of pre-2016 timber conversion on two adjacent parcels APN's: 208-241-006 & 208-241-007.
- f) A Notice of Applicability letter for proof of enrollment in the State Water Resources Control Board's General Order WQ 2019-0001-DWQ as a Tier 2 Low Risk site, under WDID: 1_12CC417973. A Site Management Plan was prepared by Mother Earth Engineering, to address project compliance with the State Water Board Order WQ-2019-0001-DWQ.
- g) The project is located within 600 feet of public lands, the Six Rivers National Forest (SRNF). The nearest proposed cultivation area is located approximately 497 feet to the SRNF boundary, and the applicant is requesting a Special Permit to allow a setback reduction to public lands. The project was referred to the SRNF on April 25, 2019, and no comments were received. The project is consistent with recreational use on public lands as the proposed project is not located near developed campgrounds, trails, or other related public facilities.

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

6. FINDING

The cultivation of 14,450 square feet of outdoor and 3,600 square feet of mixed-light cannabis cultivation and the conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

EVIDENCE

- a) The site is in a rural part of the County where the typical parcel size is over 40 acres and many of the land holdings are very large. The proposed cannabis will not be in a location where there is an established neighborhood or other sensitive receptor such as a school, church, park or other use which may be

sensitive to cannabis cultivation. Approving cultivation on this site and the other sites which have been approved or are in the application process will not change the character of the area due to the large parcel sized in the area.

- b) Irrigation water for pre-existing cannabis cultivation will come from a permitted water diversion (POD1) under Water Right Certificate H100730.
- c) A Road Evaluation Report (RER) was prepared for the access route to the project site from Hwy 36, which includes photos and a route map showing photo locations taken at pinch point areas on the road. The RER designates the access roads County Line Creek Road and Salyer Mad River Road as being developed to the equivalent of a category 4 standard, and it has been determined that the access route meets the functional capacity for the project's needs.

The applicant will be required to enter into a Road Maintenance Association for shared roads, and shall adhere to and implement the recommendations for road improvements included in all engineered road evaluations prepared for the access roads.

7. FINDING

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

EVIDENCE

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

8. FINDING

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

EVIDENCE

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

APPEAL

Appeal Issue

The appellant requests the removal of condition of approval #15 from the planning Commission Decision of May 5, 2022.

Condition of Approval Number 15, added by the Planning Commission at the May 5, 2022 meeting reads as follows:

The applicant shall have a Road Evaluation Report prepared by a licensed Civil Engineer, in order to assess the access roads and recommend improvements for the roads, and shall submit to Planning Division. The applicant shall be required to complete 100% of the improvements recommended within the RER prior to being able to continue cultivating at the site.

8. FINDING

The grounds for appeal are adequate to warrant granting the appeal to remove the condition for obtaining a Road Evaluation Report prepared by a licensed engineer and complete 100% of the improvements recommended in the Report for the access roads, prior to being able to cultivate at the site.

EVIDENCE a)

The Appellant states that the added condition is not consistent with the requirements applied to other similar applications approved by the commission, and the ability of the applicant to perform work on easement roads independent of the community road associations is not assured. The requirement to complete 100% of the improvements on the access road prior to cultivating again represents an insurmountable barrier to operation of this business.

The CMMLUO does not have any specific ordinance language requiring a road evaluation report prepared by a licensed engineer for access roads, nor does it require that 100% of the improvements be completed prior to cultivation occurring on-site. There are a total of 24 cannabis projects that utilize the same access roads, some of which have been approved and others are pending applications. Most if not all of these applications have been permitted under the CMMLUO to continue to operate while seeking permit entitlements. The CMMLUO also has provisions where existing cannabis farms may continue to operate for up to two years after obtaining permit entitlements under a compliance agreement for conditions of approval to be completed.

In this instance there is no evidence that indicates that the use of the access road for the proposed MDRV Realty Holdings, LLC project will result in safety issues on the access road and the imposition of a condition for the completion of 100% of the recommended road improvements in an engineered road evaluation report prior to being able to cultivate again may be arbitrary.

The Commercial Cannabis Land Use Ordinance (CCLUO section 55.4.12.1.8 (d)) states that “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 operations or provisional permit approval. This requirement shall also apply to **existing permittees seeking to renew their permit**. 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 RMA(s) within the roadshed that includes the road segments providing access to the cultivation site of each applicant.” All cannabis permit holders will therefore be required to enter into a Road Maintenance Association and complete road improvements and maintain private access roads through the County’s post-approval monitoring team.

- b) The application of the following conditions will ensure that the shared road is improved to the appropriate standards while allowing for an equitable burden on all cannabis permits utilizing the road.
 - 1. The applicant shall enter into a Road Maintenance Association and evidence shall be provided to the Planning Division at the satisfaction of the County. The associated Road Maintenance Association for shared roads shall adhere to and implement the recommendations for road improvements included in all engineered road evaluations prepared for the access roads. In the event that the applicant is unable to coordinate road improvements through the Road Maintenance Association, the applicant shall pay fair-share cost for maintenance of the road to any road user engaged in maintaining the road. A letter or similar communication

indicating these recommendations have been implemented, by a certified engineer shall satisfy this condition.

2. Within 90 days of executing a compliance agreement, the applicant will submit an engineer's road evaluation prepared by a certified engineer for the portion of the access road leading to the site (Eight Mile Ridge Road) not previously evaluated by a certified engineer. Within two years of executing a compliance agreement, the applicant shall implement all road improvements recommended in the evaluation including but not limited to constructing turnouts and maintaining drainage structures and vegetation. A letter from a qualified engineer stating the work has been completed shall satisfy this condition.

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

- a. Finds that the Board of Supervisors has considered the addendum to the Mitigative Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance that has been prepared for the MDRV Realty Holdings project and found the project consistent with the adopted MND pursuant to Section 15164 of the State CEQA Guidelines.
- b. Finds that the project is consistent with the Humboldt County General Plan and the Humboldt County Zoning Ordinance.
- c. Approves the Appeal filed by MDRV Realty Holdings, LLC.
- d. Approves the Conditional Use Permit for MDRV Realty Holdings, LLC subject to the recommended conditions of approval in Attachment 1.

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

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

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

Virginia Bass
_____, Chair
Humboldt County Board of Supervisors

STATE OF CALIFORNIA)) SS. County of Humboldt

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

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

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

By: KATHY HAYES

Date: _____, 2022

By _____ Deputy

EXHIBIT 1

ATTACHMENT 1

RECOMMENDED CONDITIONS OF APPROVAL

APPROVAL OF THE SPECIAL PERMIT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS, WHICH MUST BE SATISFIED BEFORE THE PROVISIONAL CANNABIS CULTIVATION PERMIT CAN BE FINALIZED.

A. General Conditions:

1. The applicant is responsible for obtaining all necessary County and State permits and licenses, and for meeting all requirements set forth by other regulatory agencies.
2. The applicant is required to pay for permit processing on a time and material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Planning and Building Department will provide a bill to the applicant after the decision. Any and all outstanding planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
3. The Applicant is responsible for costs for post-approval review for determining project conformance with conditions. A deposit is collected to cover this staff review. Permit conformance with conditions must be demonstrated prior to release of building permit or initiation of use and at time of annual inspection. A conformance review deposit as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$750) shall be paid within sixty (60) days of the effective date of the permit or upon filing of the Compliance Agreement (where applicable), whichever occurs first. Payment shall be made to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
4. A Notice of Determination (NOD) will be prepared and filed with the County Clerk for this project in accordance with the State CEQA Guidelines. The Department will file the NOD and will charge this cost to the project.
5. Within 60 days of the effective date of permit approval, the applicant shall execute a Compliance Agreement with the Humboldt County Planning and Building Department detailing all necessary permits and infrastructure improvements described under Conditions of Approval #6 through #13. The agreement shall provide a timeline for completing all outstanding items. All activities detailed under the agreement must be completed to the satisfaction of the Planning and Building Department before the permit may be finalized and no longer considered provisional.

6. The applicant shall secure permits all structures (existing and proposed) related to the cannabis cultivation and other commercial cannabis activity, including but not limited to: two (2) mixed-light greenhouses, four (4) light-deprivation greenhouses without the use of supplemental lights, one (1) ancillary propagation greenhouse, two (2) harvest storage sheds, two (2) generator sheds, and five (5) storage sheds. The plans submitted for building permit approval shall be consistent with the project description and the approved project site plan. A letter or similar communication from the Building Division verifying that all structures related to the cannabis cultivation are permitted will satisfy this condition.
7. The applicant is conditioned to permit historic grading that occurred on-site with the Building Division. The plan shall identify the cubic yards of all grading that has been completed. A letter or similar communication from the Building Division verifying that all grading related to the cannabis cultivation operation are permitted, or not needed, will satisfy this condition.
8. The project is conditioned to provide all power from 100% renewable energy sources by the 2026 cultivation season, and the applicant shall submit an energy plan show how all power will be provided by renewable energy sources.
9. The applicant shall submit shall permit the proposed solar system with the Building Division by 2026.
10. The applicant shall complete the recommendations in the Timber Conversion Report prepared by Blair Forestry Consulting; address road surface points on roads leading to conversion sites and watercourse crossings at SC #8 SC #9 & SC #10, and treat slash and woody debris around Conversion Area A and B.
11. In the event that one of the parcels (APN's: 208-241-006 or 208-241-007) is conveyed to a different owner, the applicant shall either discontinue the use of the bladders on the adjacent parcel or shall obtain an easement for the access and use of the two (2) water bladders located on APN: 208-241-006.
12. The applicant shall remove the 20,000 gallon water bladder on-site, and shall add 63,000 gallons of additional water storage in hard tanks.
13. The applicant shall install a water monitoring device to monitor the water diverted from POD 2 and used for irrigation.
14. The applicant shall submit the Restoration Plan to the California Department of Fish & Wildlife (CDFW) and obtain approval for the instream restoration work through a Lake or Streambed Alteration Agreement. The applicant shall submit a copy of the final approved Restoration Plan and LSA Agreement with CDFW to the Planning Division, and shall adhere to the work described in the final LSA Agreement and Restoration Plan.
15. The applicant shall enter into a Road Maintenance Association and evidence shall be provided to the Planning Division at the satisfaction of the County. The associated Road Maintenance Association for shared roads shall adhere to and implement the recommendations for road

improvements included in all engineered road evaluations prepared for the access roads. In the event that the applicant is unable to coordinate road improvements through the Road Maintenance Association, the applicant shall pay fair-share cost for maintenance of the road to any road user engaged in maintaining the road. A letter or similar communication indicating these recommendations have been implemented, by a certified engineer shall satisfy this condition.

16. Within 90 days of executing a compliance agreement, the applicant will submit an engineer's road evaluation prepared by a certified engineer for the portion of the access road leading to the site (Eight Mile Ridge Road) not previously evaluated by a certified engineer. Within two year of executing a compliance agreement, the applicant shall implement all road improvements recommended in the evaluation including but not limited to constructing turnouts and maintaining drainage structures and vegetation. A letter from a qualified engineer stating the work has been completed shall satisfy this condition.
17. The applicant shall be compliant with the County of Humboldt's Certified Unified Program Agency (CUPA) requirements regarding hazardous materials. A written verification of compliance shall be required before any provisional permits may be finalized. Ongoing proof of compliance with this condition shall be required at each annual inspection in order to keep the permit valid.
18. The applicant shall execute and file with the Planning Division the statement titled, "Notice and Acknowledgment regarding Agricultural Activities in Humboldt County," ("Right to Farm" ordinance) as required by the HCC and available at the Planning Division.

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

1. The applicant shall have documentation kept on-site to show the use of an off-site licensed processing facility, to be furnished during an annual inspection.
2. The applicant shall provide receipts or other equivalent documentation annually to the Planning Division for proof of portable toilet service until the applicant has obtained a permitted septic system on-site with DEH.
3. The applicant shall adhere to the terms and restrictions in the Water Right Certificate H100730, or any subsequent Water Right.
4. The applicant shall adhere to the recommendations and BPTC's listed in the Site Management Plan prepared by Mother Earth Engineering.
5. The applicant is conditioned to abide by and adhere to the terms, project description and work outlined within the final signed SAA No. EPIMS-HUM-15839-R1 with the California Department of Fish & Wildlife.

6. The combination of background, generator and greenhouse fan or other operational equipment created noise must not result in the harassment of Northern Spotted Owl species as required to meet the performance standards for noise set by Department Policy Statement No. 16-005 clarifying CMMLUO Section 55.4.11 (o) requirements. The combined noise levels measured at 100 feet or the edge of habitat, whichever is closer, shall be at or below 50 decibels. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service, and further consultation where necessary. A building permit shall be obtained should any structures be necessary for noise attenuation.
7. All artificial lighting shall be fully contained within mixed-light and propagation structures such that no light escapes (e.g., through blackout tarps). Structures shall be enclosed between 30 minutes prior to sunset and 30 minutes after sunrise to prevent disruption to crepuscular wildlife. Security lighting shall be motion activated and comply with the International Dark-Sky Association standards and Fixture Seal of Approval Program; see: <https://www.darksky.org/our-work/lighting/lighting-for-citizens/lighting-basics/>. Standards include but are not limited to the following, 1) light shall be shielded and downward facing, 2) shall consist of Low Pressure Sodium (LPS) light or low spectrum Light Emitting Diodes (LED) with a color temperature of 3000 kelvins or less and 3) only placed where needed.
8. Should the Humboldt County Planning Division receive complaints that the lighting or noise is not complying with the standards listed above in items B.1. and B.2., within ten (10) working days of receiving written notification that a complaint has been filed, the applicant shall submit written verification that the lights' shielding and alignment, and noise levels have been repaired, inspected, and corrected as necessary.
9. Prohibition on use of synthetic netting. To minimize the risk of wildlife entrapment, Permittee shall not use any erosion control materials that contain synthetic (e.g., plastic or nylon) netting, including photo- or biodegradable plastic netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves.
10. All refuse shall be contained in wildlife proof storage containers, at all times, and disposed of at an authorized waste management facility.
11. Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and be allowed to leave the work site unharmed.
12. The use of anticoagulant rodenticide is prohibited.
13. The operator shall provide information to all employees about the potential health impacts of cannabis use on children. Information shall be provided by posting the brochures from the Department of Health and Human Services titled "Cannabis Palm Card" and "Cannabis Rack Card." This information shall also be provided to all employees as part of the employee orientation.

14. All components of project shall be developed, operated, and maintained in conformance with the Project Description, the approved Site Plan, the Cultivation & Operations Plan, and these conditions of approval. Changes shall require modification of this permit except where consistent with Humboldt County Code Section 312-11.1, Minor Deviations to Approved Plot Plan. If offsite processing is chosen to be the preferred method of processing, this permit shall be modified to identify the offsite licensed facility.
15. Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws and regulations as set forth in the CMMLUO and MAUCRSA, as applicable to the permit type.
16. If operating pursuant to a written approved compliance agreement, permittee shall abate or cure violations at the earliest feasible date, but in no event no more than two (2) years from the date of issuance of a provisional clearance or permit. Permittee shall provide plans for curing such violations to the Planning and Building Department within one (1) year of issuance of the provisional clearance or permit. If good faith effort toward compliance can be shown within the two years following the issuance of the provisional clearance or permit, the Department may, at the discretion of the Director, provide for extensions of the provisional permit to allow additional time to meet the outstanding requirements.
17. Possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the MAUCRSA, and regulations promulgated thereunder, as soon as such licenses become available.
18. Compliance with all statutes, regulations, and requirements of the California State Water Resources Control Board and the Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration, as applicable.
19. Confinement of the area of cannabis cultivation, processing, manufacture, or distribution to the locations depicted on the approved site plan. The commercial cannabis activity shall be set back at least 30 feet from any property line, and 600 feet from any school, school bus stop, church or other place of religious worship, or tribal cultural resources, except where a reduction to this setback has been approved pursuant to Section 55.4.11(d).
20. Maintain enrollment in Tier 1 or 2, certification with State Water Resource Control Boards (SWRCB) General Order No. WQ 2019-0001-DQW, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
21. Comply with the terms of any applicable Lake and Stream Alteration (1600 or 1602) Permit obtained from the California Department of Fish and Wildlife (CDFW).

22. Comply with the terms of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (Cal Fire), if applicable.
23. Consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday through Friday, 9:00 a.m. to 5:00 p.m., excluding holidays).
24. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
25. Pay all applicable application, review for conformance with conditions and annual inspection fees.
26. Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, including the County of Humboldt's Certified Unified Program Agency (CUPA) program, and in such a way that no spillage occurs.
27. The master log books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
28. Pay all applicable taxes as required by the Humboldt County Commercial Marijuana Cultivation Tax Ordinance (Humboldt County Code Section 719-1 et seq.).

Performance Standards for Cultivation and Processing Operations

29. Pursuant to the MCRSA, Health and Safety Code Section 19322(a)(9), an applicant seeking a cultivation license shall "provide a statement declaring the applicant is an 'agricultural employer,' as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law."
30. Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include federal and state wage and hour laws, Cal/OSHA, OSHA, the California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).
31. Cultivators engaged in processing shall comply with the following Processing Practices:
 - a. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
 - b. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
 - c. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
 - d. Employees must wash hands sufficiently when handling cannabis or use gloves.

32. All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
 - a. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
 - (1) Emergency action response planning as necessary;
 - (2) Employee accident reporting and investigation policies;
 - (3) Fire prevention;
 - (4) Hazard communication policies, including maintenance of material safety data sheets (MSDS);
 - (5) Materials handling policies;
 - (6) Job hazard analyses; and
 - (7) Personal protective equipment policies, including respiratory protection.
 - b. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
 - (1) Operation manager contacts;
 - (2) Emergency responder contacts; and
 - (3) Poison control contacts.
 - c. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.
 - d. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.
33. All cultivators shall comply with the approved processing plan as to the following:
 - a. Processing practices
 - b. Location where processing will occur
 - c. Number of employees, if any
 - d. Employee Safety Practices
 - e. Toilet and handwashing facilities
 - f. Plumbing and/or septic system and whether or not the system is capable of handling increased usage
 - g. Drinking water for employees
 - h. Plan to minimize impact from increased road use resulting from processing
 - i. On-site housing, if any
34. Term of Commercial Cannabis Activity Conditional Use Permit & Special Permit. Any Commercial Cannabis Cultivation CUP or SP issued pursuant to the CMMLUO shall expire one (1) year after date of issuance, and on the anniversary date of such issuance each year thereafter, unless an annual compliance inspection has been conducted and the permittees and the permitted site have been found to comply with all conditions of approval.
35. If the inspector or other County official determines that the permittees or site do not comply with the conditions of approval, the inspector shall serve the permit holder with a written

statement identifying the items not in compliance, and the action that the permit holder may take to cure the noncompliance, or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a reinspection to determine whether or not the permit holder has cured all issues of noncompliance. Failure to request reinspection or to cure any items of noncompliance shall terminate the Conditional Use Permit & Special Permit, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed pursuant to Section 55.4.13.

36. Permit Renewals to Comply with Updated Laws and Regulations. Permit renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that new standards are met.
37. Acknowledgements to Remain in Full Force and Effect. Permittee acknowledges that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this section in the event that environmental conditions, such as a sustained drought or low flows in the watershed in which the cultivation area is located, will not support diversions for irrigation.
38. Transfers. Transfer of any leases or permits approved by this project is subject to the review and approval of the Planning Director for conformance with CMMLUO eligibility requirements and agreement to permit terms and acknowledgments. The fee for required permit transfer review shall accompany the request. The request shall include the following information:
 - a. Identifying information for the new owner(s) and management as required in an initial permit application;
 - b. A written acknowledgment by the new owner in accordance as required for the initial permit application;
 - c. The specific date on which the transfer is to occur;
 - d. Acknowledgement of full responsibility for complying with the existing permit; and
 - e. Execution of an Affidavit of Non-diversion of Medical Cannabis.
39. Inspections. The permit holder and subject property owner are to permit the County or representative(s) or designee(s) to make inspections at any reasonable time deemed necessary to assure that the activities being performed under the authority of this permit are in accordance with the terms and conditions prescribed herein.

Informational Notes:

1. Pursuant to Section 314-55.4.11(a) of the CMMLUO, if upon inspection for the initial application, violations of any building or other health, safety, or other state or county statute, ordinance, or regulation are discovered, the Planning and Building Department may issue a provisional clearance or permit with a written approved Compliance Agreement. By signing

the agreement, the permittee agrees to abate or cure the violations at the earliest opportunity but in no event more than two (2) years after the date of issuance of the provisional clearance or permit. Plans for curing the violations shall be submitted to the Planning and Building Department by the permittee within one (1) year of the issuance of the provisional certificate or permit. The terms of the compliance agreement may be appealed pursuant to Section 314-55.4.13 of the CMMLUO.

2. This provisional permit approval shall expire and become null and void at the expiration of one (1) year after all appeal periods have lapsed (see “Effective Date”), except where the Compliance Agreement per Condition of Approval #6 has been executed and the corrective actions pursuant to the agreement are being undertaken. Once building permits have been secured and/or the use initiated pursuant to the terms of the agreement, the use is subject to the Permit Duration and Renewal provisions set forth in the Ongoing Requirements/Development Restrictions, above.
3. If cultural resources are encountered during construction activities, the contractor on-site shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist and the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and the lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, shellfish or faunal remains, and human burials. If human remains are found, California Health and Safety Code 7050.5 requires that the County Coroner be contacted immediately at 707-445-7242. If the Coroner determines the remains to be Native American, the Native American Heritage Commission will then be contacted by the Coroner to determine appropriate treatment of the remains pursuant to Public Resources Code (PRC) Section 5097.98. Violators shall be prosecuted in accordance with PRC Section 5097.99.

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