

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; Meeting on March 22, 2022

Resolution No. 22-42

Resolution of the Board of Supervisors of the County of Humboldt ADOPTING FINDINGS OF FACT, DENYING THE APPEAL FOR RECORD NO. PLN-2022-17620, AND APPROVING THE AMBIGUITY FARM, LLC, CONDITIONAL USE PERMIT RECORD NO. PLN-12812-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, an application for Conditional Use Permit has been submitted to the Humboldt County Planning and Building Department for the proposed Conditional Use Permit for 43,560 square feet of existing outdoor cannabis cultivation and 2,500 square feet of ancillary propagation area, and a Special Permit for restoration work within a Streamside Management Area (SMA); and

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

WHEREAS, on January 20, 2022, the Planning Commission took the following actions:

1. Considered the Addendum to the Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance that was prepared for Ambiguity Farm, LLC.; and
2. Found based on the submitted evidence that the proposed project complies with the General Plan and Zoning Ordinance; and
3. Approved the Conditional Use Permit and Special Permit under record No. PLN-12812-CUP as conditioned by staff.

WHEREAS, on February 7, 2022, Thomas P. Crandall (“Appellant”) timely filed an appeal in accordance with the Appeal Procedures specified in Humboldt County Code Section 312-13 et seq.; and

WHEREAS, the Board of Supervisors held a duly-noticed public hearing, *de-novo*, on March 22, 2022, and reviewed, considered, and discussed the application and appeal for the Conditional Use Permit and Special Permit; and reviewed and considered all public testimony and evidence presented at the hearing; and

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

1. FINDING: **Project Description:** A Conditional Use Permit for 43,560 square feet of existing outdoor cannabis cultivation, and a Special Permit for restoration work within a Streamside Management Area (SMA). Ancillary propagation will occur in two 1,250-square-foot greenhouses for a total propagation space of 2,500 square feet. There will be three cultivation cycles occurring annually. All processing will occur offsite. Water for the project will be sourced from an onsite 800,000-gallon onstream-pond and a proposed rainwater catchment system. The applicant anticipates 400,000 gallons of water will be required for irrigation annually. There are 100,000 gallons of available water storage occurring in two 50,000-gallon metal tanks, with 300,000 gallons of additional water storage proposed for the project. There will be a maximum of four employees required for operations. Power for the project is sourced from a solar array with a backup generator.

EVIDENCE: Project File: PLN-12812-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) A Site Management Plan (SMP) dated May 2020 was prepared by Trinity Valley Consulting Engineers, Inc to show compliance with the North Coast Regional Water Quality Control Board Order No. 2017-0023-DWQ.
 - d) There are no mapped endangered or threatened species of concerns located on the subject APN, although the neighboring APN (223-011-007), which is part of the same legal parcel, has a mapped occurrence of foothill yellow-legged frog. The nearest Northern Spotted Owl (NSO) activity center (HUM0223) is located approximately 4.5-miles southeast of the cultivation site and the nearest NSO observation was observed over two-miles southeast from the cultivation site. Marbled Murrelet habitat is mapped approximately four miles east from the cultivation site. The applicant submitted a Biological Scoping Report prepared by Hohman and Associates. An Initial Biological Scoping Report was performed in February of 2019 by Kelsey McDonald of Hohman and Associates. The report recommended seasonally appropriate floristic surveys, a site visit, pre-construction bird surveys, and surveys for foothill yellow legged frog surveys within one week of beginning work on any stream crossings. These recommendations, if not already completed, have been included as conditions of approval.
 - e) The project is located in the Bear River Band and Sinkyone Aboriginal Ancestral Territories. The project was referred to the Northwest Information Center, Bear River Band of the Rohnerville Rancheria, and Intertribal Sinkyone Wilderness Council. The applicant submitted a Cultural Resource Report prepared by Nick Angeloff of Archaeological Research and Supply Company that concluded there were no significant archaeological or historic period cultural resources that, for the purposes of CEQA (15064.5 (a)), would be considered an historical resource present in the limits of the project area. Additionally, tribal cultural resources were not present within the project area. The project has an ongoing condition to include inadvertent archaeological discovery language.

FINDINGS FOR CONDITIONAL USE PERMIT AND SPECIAL PERMIT

- 3. FINDING** The proposed development is in conformance with the County General Plan, Open Space Plan, and the Open Space Action Program.
- EVIDENCE**
- a) General agriculture is a use type permitted in the Agricultural Grazing (AG) land use designation. The proposed cannabis cultivation, an agricultural product, is within land planned and zoned for agricultural purposes, consistent with the use of Open Space land for managed production of resources. The use of an agricultural parcel for commercial agriculture is consistent with the Open Space Plan and Open Space Action Program. Therefore, the project is consistent with and complimentary to the Open Space Plan and its Open Space Action Program.
- 4. FINDING** The proposed development is consistent with the purposes of the existing AE-B-5(160) zone in which the site is located.
- EVIDENCE**
- a) The Agriculture Exclusive or AE Zone is intended to be applied to areas of the County in which general agriculture residential uses are the desirable predominant uses.

- b) All general agricultural uses are principally permitted in the AE 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 over one acre 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 43,560 square feet of outdoor cultivation on a 146-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 AE (HCC 314-55.4.8.2.2).
- b) APN 223-011-009 and APN 223-011-007 have been determined to be one legal parcel as described in Certificate of Subdivision Compliance 2017-016429.
- c) The applicant has a documented water right for a diversionary water source and will adhere to forbearance requirements.
- d) A Road Evaluation Report was submitted by the applicant in February 2021 certifying that the road is equivalent to a road Category 4 standard. The Evaluation addressed Tooby Ranch Road to the access road to the subject parcel. All road segments evaluated were found to be functionally appropriate for the expected traffic.
- e) The slope of the land where cannabis will be cultivated is less than 15%.
- f) The cultivation of cannabis will not result in the net conversion of timberland.
- g) The location of the cultivation complies with all setbacks required in Section 314-55.4.11.d. It is more than 30 feet from any property line, and more than 600 feet from any school, church, public park or Tribal Cultural Resource.

6. FINDING

The cultivation of 43,560 square feet of outdoor cannabis and the conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

EVIDENCE

- a) The site is located on road that is developed to the equivalent of a road category 4 standard and will safely accommodate the amount of traffic generated by the proposed cannabis cultivation.
- b) 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.
- c) Water for irrigation will be provided by an onstream rainwater catchment pond with a capacity of 800,000 gallons and a proposed rainwater catchment system. There are a total of 100,000 gallons of available water storage occurring within two (2) hard tanks located on APN 223-011-009, with 300,000 gallons of additional water storage proposed so that the applicant may observe forbearance.

- d) Provisions have been made in the applicant's proposal to protect water quality and thus runoff to adjacent property and infiltration of water to groundwater resources will not be affected.

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.

8. **FINDING** The proposed project will not have an impact to sensitive habitat areas where policies are applied to protect fish and wildlife and facilitate the recovery of endangered species. (BR-G1, Threatened and Endangered Species, BR-G2, Sensitive and Critical Habitat, BR-G3, Benefits of Biological Resources).

EVIDENCE
a) The nearest Northern Spotted Owl (NSO) activity center (HUM0223) is located approximately 4.5-miles southeast of the cultivation site and the nearest NSO observation was observed over two-miles southeast from the cultivation site. Marbled Murrelet habitat is mapped approximately four miles east from the cultivation site.

b) The applicant submitted a Biological Scoping Report prepared by Hohman and Associates. An Initial Biological Scoping Report was performed in February of 2019 by Kelsey McDonald of Hohman and Associates. The report recommended seasonally appropriate floristic surveys, a site visit, pre-construction bird surveys, and surveys for foothill yellow legged frog surveys within one week of beginning work on any stream crossings. These recommendations, if not already completed, have been included as conditions of approval.

c) The applicant submitted a Botanical Survey prepared by Hohman and Associates, which identified invasive species in the area and recommends appropriate removal and mitigation methods that are included as conditions of approval for the project.

d) The applicant submitted a Site Management Plan (SMP) prepared by Trinity Valley Consulting Engineers, Inc. which states the applicant is a Tier 2 discharger (WDID#-1_12CC419563). The applicant shall implement and adhere to all recommendations and corrective actions found within the SMP.

9. **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 site is located in the South Fork Eel Planning Watershed, which under Resolution 18-43 is limited to 730 permits and 251 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 203 permits and the total approved acres would be 73.3 acres of cultivation.

APPEAL

10. **Finding** The ground for appeal are not adequate to warrant granting the appeal.

Evidence
The Appellant contends that while cannabis cultivation may be a compatible use when combined with commercial grazing, cannabis is not permitted to be the sole agricultural product of a Class B grazing ownership and that approval of this Conditional Use Permit is therefore not in compliance with the Contract requirements or the County's Adopted Williamson Act Guidelines.

While the Appellant is correct that the property is out of compliance with the Tooby Preserve Contract and Humboldt County Williamson Act Guidelines, however it has already been determined that the Tooby Preserve is noncompliant with the Contract and Guidelines. Humboldt County Superior Court Case No. DR020825 concluded that nullification of the land transfers that resulted in the non-compliance was not required as a remedy to this violation, leaving the properties noncompliant with the Tooby Preserve Contract. As a result, the County and most of the defendants entered into a settlement agreement whereby the County would non-renew the Land Conservation Contract and would not pursue further enforcement related to the existing non-compliance. Specifically the agreement included a provision to "preserve the physical status of the land in its current condition and not to conduct additional grading, surface mining and/or to construct new Development, without obtaining all necessary permits and/or exemptions..." Adherence to Contract provisions is required as part of the settlement, however the intent of the agreement was for no further County enforcement actions related to the existing non-compliance in effect at the time of the settlement.

The property in question was in its current configuration (below 600 acres) and not engaged in commercial grazing operations at the time of the settlement agreement and contract nonrenewal, and as such lack of commercial grazing on the property currently does not constitute further noncompliance as the issues raised by this appeal have already been litigated and settled. Approval of commercial cannabis cultivation on this parcel does not result in any additional non-compliance with the contract or the Williamson Act Guidelines.

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

- 1 Adopts the Findings set forth in this Resolution;
- 2 Finds that the Board of Supervisors has considered the Addendum to the Mitigated Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance that was prepared for Ambiguity Farm, LLC; and
- 3 Finds that the proposed project complies the General Plan and Zoning Ordinance; and
- 4 Denies the Appeal submitted by Thomas P. Crandall; and
- 5 Approves the Conditional Use Permit for 43,560 square feet of existing outdoor light-deprivation cannabis cultivation, with 2,500 square feet of appurtenant propagation area, associated infrastructure and support facilities, and a Special Permit for restoration work within a SMA, subject to the conditions of approval contained in Attachment 1A of this Resolution; and

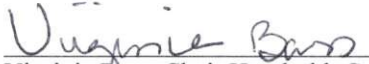
The foregoing Resolution is hereby passed and adopted by the Board of Supervisors on March 22, 2022, by the following vote:

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

AYES: Supervisors: **Bohn, Bushnell, Bass**

NOES: Supervisors: Madrone, Wilson

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: March 22, 2022

By



Nikki Turner, Deputy Clerk of the Board
Humboldt County Board of Supervisors

ATTACHMENT 1A

RECOMMENDED CONDITIONS OF APPROVAL

Approval of the Conditional Use Permit and 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. Within three days of the effective date of permit approval, the Department will file the Notice of Determination 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 #14. 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 for all structures related to the cannabis cultivation and other commercial cannabis activity, including but not limited to, existing and proposed greenhouses, water tanks over 5,000 gallons existing and proposed structures associated with drying and storage or any activity with a nexus to cannabis, and any noise containment structures as necessary. The plans submitted for building permit approval 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 shall ensure all driveways and private road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance). Confirmation from the Department of Public Works that the work has been done will satisfy this condition.
8. The applicant shall rock the surface of the access road where it intersects Tooby Ranch Road, for a minimum width of 20 feet and a length of 50 feet. An encroachment permit must be obtained for the Department of Public Works Land Use Division prior to work within the county right-of-way. Confirmation from the Department of Public Works that the work has been done will satisfy this condition.

9. The applicant shall discontinue the use of and decommission the pit privy on-site and provide portable toilets for cultivation operations. The applicant shall keep receipts for portable toilets or similar documentation to be furnished during annual inspections.
10. The applicant shall complete all SMA restoration work outlined in the Restoration and Monitoring Plan prepared by Hohman and Associates and provide evidence that all corrective actions have been completed. Final signoff from the Planning Department will satisfy this condition.
11. The applicant shall install water monitoring device on each source – rainwater catchment and surface diversion if/when utilized and storage tanks as applicable - to monitor water used for cannabis irrigation separate from domestic use. Final signoff from the Planning Department will satisfy this condition.
12. The applicant shall provide substantial evidence that all corrective actions detailed within the Site Management Plan have been completed. Final signoff from the Planning Department will satisfy this condition.
13. The applicant shall adhere to all recommendations in the Road Assessment prepared by Hohman and Associates dated March 11, 2021. Final signoff from the Planning Department will satisfy this condition.
14. The applicant shall relocate the solar panel outside of the mapped SMA. Final signoff from the Planning Department will satisfy this condition.
15. 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.
16. 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 combined decibel level for all noise sources, including generators, measured at the property line shall be no more than 60 decibels.
2. All artificial lighting shall be fully contained within structures such that no light escapes (e.g., through blackout curtains). Structures shall be enclosed between 30 minutes prior to sunset and 30 minutes after sunrise to prevent disruption to crepuscular wildlife. Security lighting shall be motion activated and comply with the International Dark-Sky Association standards and Fixture Seal of Approval Program; see: <https://www.darksky.org/our-work/lighting/lighting-for-citizens/lighting-basics/>. Standards include but are not limited to the following, 1) light shall be shielded and downward facing, 2) shall consist of Low Pressure Sodium (LPS) light or low spectrum Light Emitting Diodes (LED) with a color temperature of 3000 kelvins or less and 3) only placed where needed.
3. The applicant shall abide by recommendations of the Biological Assessment prepared by Hohman and Associates Forestry Consultants dated February 1, 2019 which include foothill yellow legged frog surveys within one week of beginning work within streams, and pre-construction bids surveys prior to any additional construction or native vegetation clearing between February 1 and August 31.
4. The applicant shall abide by recommendations of the Botanical Survey Report prepared by Hohman and Associates Forestry Consultants dated July 31, 2019, which include avoiding disturbance of identified fawn lily and Lobb's aquatic butter cup identified on site, as well as appropriate treatment of invasive thistle identified on site.
5. Documentation from a licensed offsite processing service will be kept on file by the applicant to be furnished during annual inspections.

6. The applicant shall abide by all recommendations in the Restoration and Monitoring plan prepared by Hohman and Associates Forestry Consultants dated August 23, 2019, as approved by CDFW. The applicant shall submit the final monitoring report to the Planning Department at the end of the proposed three-year restoration period.
7. 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.
8. Prohibition on use of synthetic netting. To minimize the risk of wildlife entrapment, Permittee shall not use any erosion control and/or cultivation materials that contain synthetic (e.g., plastic or nylon) netting, including photo- or biodegradable plastic netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves.
9. All refuse shall be contained in wildlife proof storage containers, at all times, and disposed of at an authorized waste management facility.
10. Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and be allowed to leave the work site unharmed.
11. The use of anticoagulant rodenticide is prohibited.
12. 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.
13. All components of project shall be developed, operated, and maintained in conformance with the Project Description, the approved Site Plan, the Plan of Operations, and these conditions of approval. Changes shall require modification of this permit except where consistent with Humboldt County Code Section 312-11.1, Minor Deviations to Approved Plot Plan. If offsite processing is chosen to be the preferred method of processing, this permit shall be modified to identify the offsite licensed facility.
14. 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.
15. 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.
16. 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.
17. 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.
18. 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).

19. Maintain enrollment in Tier 1 or 2 certification with State Water Resources Control Board Order WQ 2019-0001-DWQ, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
20. 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), if applicable.
21. 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.
22. 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).
23. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
24. Pay all applicable application, review for conformance with conditions and annual inspection fees.
25. 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.
26. The master log books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
27. Pay all applicable taxes as required by the Humboldt County Commercial Marijuana Cultivation Tax Ordinance (Humboldt County Code Section 719-1 et seq.).
28. 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.

Performance Standards for Cultivation and Processing Operations

29. Pursuant to Business and Professions Code section 26051.5(a)(8), an applicant seeking a cultivation license shall "provide a statement declaring the applicant is an 'agricultural employer,' as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law."
30. Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include federal and state wage and hour laws, Cal/OSHA, OSHA, the California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).
31. Cultivators engaged in processing shall comply with the following Processing Practices:
 - a. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.

- b. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
 - c. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
 - d. Employees must wash hands sufficiently when handling cannabis or use gloves.
32. All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
- a. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
 - (1) Emergency action response planning as necessary;
 - (2) Employee accident reporting and investigation policies;
 - (3) Fire prevention;
 - (4) Hazard communication policies, including maintenance of material safety data sheets (MSDS);
 - (5) Materials handling policies;
 - (6) Job hazard analyses; and
 - (7) Personal protective equipment policies, including respiratory protection.
 - b. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
 - (1) Operation manager contacts;
 - (2) Emergency responder contacts; and
 - (3) Poison control contacts.
 - c. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.
 - d. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.
33. All cultivators shall comply with the approved processing plan as to the following:
- a. Processing practices
 - b. Location where processing will occur
 - c. Number of employees, if any
 - d. Employee Safety Practices
 - e. Toilet and handwashing facilities
 - f. Plumbing and/or septic system and whether or not the system is capable of handling increased usage
 - g. Drinking water for employees
 - h. Plan to minimize impact from increased road use resulting from processing
 - i. On-site housing, if any
34. Term of Commercial Cannabis Activity Permit. Any Commercial Cannabis Cultivation Permit issued pursuant to the CMMLUO shall expire one (1) year after date of issuance, and on the anniversary date of such issuance each year thereafter, unless an annual compliance inspection has been conducted and the permittees and the permitted site have been found to comply with all conditions of approval.
35. If the inspector or other County official determines that the permittees or site do not comply with the conditions of approval, the inspector shall serve the permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the noncompliance, or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a reinspection to determine whether or not the permit holder has cured all issues of noncompliance. Failure to request reinspection or to cure any items of noncompliance shall terminate the Special Permit, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed pursuant to Section 55.4.13.

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