

to offer the functional capacity of a Category 4 roadway. Conditions of approval would require the applicant to improve the intersection of Homestead Road and Alderpoint Road to meet commercial standards.

Failure to Pay Measure S Taxes

The applicant/property owner has failed to pay the required cannabis excise taxes for 2018 and 2019. While the applicant/property owner has indicated his potential willingness to pay the 2019 excise taxes, they have not been paid as of the date of this staff report. The applicant/property owner has explicitly stated his refusal to pay the 2018 excise taxes.

Section 719-4 of the Humboldt County Code specifies "In addition to any requirements imposed by Title III of this Code, each property owner whose property is subject to a commercial marijuana cultivation permit shall pay an annual tax of \$1 per square foot of outdoor cultivation area, \$2 per square foot of mixed-light cultivation area or \$3 per square foot of indoor cultivation area regardless of whether or not marijuana is actually grown on such property." (Ord. 2567, § 1, 12/13/2016; Ord. 2575, § 1, 6/6/2017) Title VII Div. 1 Ch. 9 Commercial Marijuana Cultivation Tax |

On Wednesday, December 11, 2019, a staff member from Green Road Consulting contacted the assigned Planner to inquire why the interim permit was not extended through December 31, 2020. The agent was told the applicant did not pay the 2018 taxes and staff requested proof of payment to bring the project back into good standing. The applicant claims in his email dated December 12, 2019, that he only cultivated 6 cannabis plants for personal use as opposed to the 9,000 square feet allowed by the interim permit.

Staff determined that cultivation taxes for 2018 are required. First, Measure S Taxes are assessed based on the entitlement to cultivate, not whether or not a person cultivated. Homestead Collective Weed Company, LLC was issued an Interim Permit to cultivate 9,000 square feet of outdoor cultivation on August 29, 2018. Thus, the cultivation excise tax is required for the 2018 cultivation year regardless of whether cultivation occurred on-site. The Interim Permit, signed and notarized by the applicant/property owner, states that "*The Property Owner and Applicant hereby acknowledge upon the date of issuance of this Zoning Clearance Certificate for an Interim Permit allowing outdoor and/or mixed light of ECCC shall be subject to taxation pursuant Humboldt County Code Sections 719.1-719.5.*" This language is found on page 4 of the Interim Permit attached to this staff report (Attachment 3).

As stated above, County Code requires the excise taxes to be paid "regardless of whether or not marijuana is actually grown on the property." However, Humboldt County WebGIS aerial imagery shows that cultivation did in fact occur in 2018 as shown in the email dated December 12, 2019, from the supervising planner to the applicant (see Attachment 4). A review of the documentation submitted for the Cultivation Area Verification (CAV) and relocation dispute does not indicate the applicant stating cultivation did not occur in 2018. In fact, the applicant's response to the County's assessment that he had expanded his cultivation area was that he had not expanded but relocated on-site (Attachment 5). Admittance of on-site relocation is an acknowledgement of cultivation occurring.

Cultivation Area Verification

The applicant is disputing the Cultivation Area Verification (CAV) conducted by County Planning staff in March 2018 (see Attachment 2). Planning staff found 6,989 square feet of outdoor cultivation in existence prior to January 1, 2016, located in four distinct areas using TerraServer imagery from November 2015. In early August 2018, the applicant was notified an 8,021-square-foot expansion occurred at the site, including relocation of cultivation and development of an on-stream pond. The applicant submitted documentation asserting the CAV conducted by the

**RESOLUTION OF THE PLANNING COMMISSION
OF THE COUNTY OF HUMBOLDT
Resolution Number 20-**

**Record Number: PLN-12237-SP
Assessor Parcel Number: 217-401-011**

Makes the required findings for certifying compliance with the California Environmental Quality Act and conditionally approves the Homestead Collective Weed Company Special Permits request.

WHEREAS, Homestead Collective Weed Company submitted an application for a Special Permit to continue 9,000 square feet (SF) of existing outdoor cannabis cultivation on APN 217-401-011. Water is provided by a point of diversion in an unnamed tributary to Basin Creek and a 250,000-gallon onstream pond. Power is provided by a generator for the residence only; and

WHEREAS, Homestead Collective Weed Company submitted an application for a Special Permit to allow for a point of diversion and 250,000-gallon onstream pond within the Streamside Management Area of Basin Creek; and

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

WHEREAS, Section 719-4 of the Humboldt County Code specifies "In addition to any requirements imposed by Title III of this Code, each property owner whose property is subject to a commercial marijuana cultivation permit shall pay an annual tax of \$1 per square foot of outdoor cultivation area, \$2 per square foot of mixed-light cultivation area or \$3 per square foot of indoor cultivation area regardless of whether or not marijuana is actually grown on such property"; and

WHEREAS, The project applicant and property owner, Brian Roberts, held an Interim Permit that was issued on August 22, 2018 and has not paid the annual excise tax pursuant to Section 719-4 of the Humboldt County Code; and

WHEREAS, when contacted regarding the failure to pay cultivation taxes for 2018, the applicant and property owner, Brian Roberts, has stated that he will not pay the taxes required pursuant to Section 719-4 of the Humboldt County Code; and

WHEREAS, In order to approve a project, the required findings for approval in Section 312-17.1 of the Humboldt County Code must be made, and

WHEREAS, a public hearing was held on the matter before the Humboldt County Planning Commission on May 7, 2020.

NOW, THEREFORE, be it resolved, determined, and ordered by the Humboldt County Planning Commission that:

1. **California Environmental Quality Act:** The proposed project is statutorily exempt from the provisions of the California Environmental Quality Act (CEQA) per section 15270 (Projects Which Are Disapproved) of the CEQA Guidelines; and