

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; Meeting on September 27, 2022

Resolution No. 22-117

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-10930-CUP AND APPROVING THE DYERVILLE FARMS, LLC CONDITIONAL USE PERMIT RECORD NO. PLN-10930-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, Dyerville Farms, LLC submitted an application for a Conditional Use Permit for 24,634 square feet of existing commercial cannabis cultivation consisting of 22,380 square feet of outdoor and 2,254 square feet of mixed light cultivation supported by an ancillary nursery; 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 July 7, 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 Dyerville Farms, 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-12424-CUP as recommended and conditioned by staff with an additional condition number A25 as follows:

Within one year of project approval the applicant shall provide a plan for review and approval by the Planning and Building Department to implement a rainwater catchment system capable of providing 20% of the total water required for cultivation. Within two years of project approval the rainwater catchment system

must be operational, and provide at least 20% of the irrigation water.

Approval also included the staff recommendation for condition number A11 as follows:

To ensure that no water is drawn from Well WCR2018-010387, as identified in the report prepared by David N. Lindberg, CEG (May 3, 2022), the applicant shall cap this well within three (3) weeks of project approval.

WHEREAS, Dyerville Farms, LLC (“Appellant”) on July 15, 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 August 30, 2022; and

WHEREAS, the Board of Supervisors heard public comment regarding the project on August 30, 2022 and closed the public comment portion of the hearing; and

WHEREAS, on August 30, 2022, the Board of Supervisors continued the hearing to September 27, 2022, to give staff time to address questions raised regarding the analysis prepared by a Certified Engineering Geologist regarding the project;

WHEREAS, on September 27, 2022, the Board of Supervisors received a staff report on the questions presented at the prior meeting, heard public comment on the new information, and adopted the motion to approve the appeal, and to approve the Conditional Use Permit with the recommended conditions of approval.

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

1. FINDING:

Project Description: A Conditional Use Permit (PLN-12424-CUP) for 24,634 square feet of existing commercial cannabis cultivation consisting of 22,380 square feet of outdoor and 2,254 square feet of mixed light cultivation. The project proposal includes a 2,830 square foot ancillary propagation area with appurtenant drying and processing activities. The project is conditioned to limit ancillary nursery size to 10% of cultivation area. The project includes a Special Permit for work within the Streamside Management Area. The primary source of electrical power is a solar array with battery storage with a generator used for backup. Irrigation water is sourced from one groundwater well that is hydrologically disconnected from surface water.

EVIDENCE: 1. Project File: PLN-12424-CUP

2. FINDING:

CEQA. The requirements of the California Environmental Quality Act have been met. The Humboldt County Board of Supervisors has considered the Addendum to and 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 to the MND prepared for the proposed project in compliance with CEQA.
 - 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 list of potential special status species near the project area was generated in May 2022 using the following information systems: California Natural Diversity Database (CDFW 2021), Biogeographic Information and Observation System (BIOS), Northern Spotted Owl Viewer (CDFW 2021), and US Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC). There is a known occurrence of one (1) special status species within 1.5 miles of the project area: the foothill yellow-legged frog (approximately 6,000 feet to the northeast). Project activities are not expected to produce adverse or cumulative effects to any special status species or habitat, due to the small size of the project area and the type of proposed activities. Therefore, potential project impacts to biological resources are considered low and unlikely, with implementation of the mitigation measures identified in the CMMLUO Mitigated Negative Declaration (MND) adopted on January 26, 2016.
 - d) A Water Resources Protection Plan (WRPP) was prepared in fulfillment of State Water Resources Control Board (SWRCB) General Order WQ 2019-0001-DWQ. The document was prepared to meet the North Coast Regional Water Quality Control Board (NCRWQCB) requirements for Tier 2 discharges of waste resulting from cannabis cultivation (WDID No. 1_12CC417547). Except for one (1) natural seasonal spring, the project area does not include perennial surface waters or wetlands. The spring is isolated, does not have a well-defined channel visible down gradient, and is not hydrologically connected to other surface waters. There is one (1) stream crossing onsite (Crossing 1). The WRPP identifies recommendations designed to decrease erosion and sedimentation of waterways. These recommendations include installing four (4) rocked rolling dips on a road segment experiencing surface rilling and installing rock armoring to fortify two (2) existing culverts (**Conditions 12 and 13**).
 - e) An archaeological survey report was prepared by Nick Angeloff of Archaeological Research and Supply Company (August 2019). A field survey conducted by Mr. Angeloff in August 2019 identified no historic resources within or adjacent to the project area. Therefore, the project is not anticipated to have an adverse effect on significant cultural resources. However, the report recommends establishing protocols to protect unknown resources and/or human remains by implementing the standard Inadvertent

Discovery Protocol (**Condition 17**). Additionally, consultation letters were sent to Native American groups associated with the project area. The Native American Heritage Commission (NAHC) indicated that no known cultural resources are present in the area. The Bear River Band of the Rohnerville Rancheria requested a field visit and a copy of the final report. The Sinkyone Intertribal Wildness Council did not respond to requests for information.

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.
 - b) Cultivation areas are not located within any riparian setbacks or streamside management areas. A Special Permit is sought for work within the SMA, including work on culverts.

4. FINDING

The proposed development is consistent with the purposes of the existing Agriculture Exclusive (AE) and Special Building Site (B-5(160)) zoning designations in which the site is located.

- EVIDENCE:**
- a) The AE zone is intended to be applied in fertile areas in which agriculture is and should be the desirable predominant use and in which the protection of this use from encroachment from incompatible uses is essential to the general welfare. Special Building Site (B-5(160)) areas are subzones that are intended to be combined with any principal zone, consistent with cultivation activities within the project area.
 - b) Humboldt County Code section 313-106.6 allows cultivation of up to 43,560 SF of existing outdoor cannabis and up to 22,000 SF of existing mixed-light cannabis on a parcel over 1 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 a total of 24,634 SF of cannabis cultivation consisting of 22,380 SF outdoor cultivation and 2,254 SF mixed light cultivation and a 2,830-SF ancillary propagation area on a 183-acre parcel is consistent with the Humboldt County Code 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 Agriculture Exclusive (AE) and Special Building Site (B-5(160)), (HCC 314-55.4.8.2.2).
 - b) The parcel was created in compliance with all applicable state and local subdivision regulations, as it was recorded via grant deed with Humboldt County on March 30, 2006.
 - c) Irrigation water is sourced from one (1) groundwater well (Permit No. 19/20-0813) that is hydrologically disconnected from surface water. Estimated annual water use is 313,600 gallons (12.7 gal/SF).
 - d) The slope of the land where cannabis will be cultivated is greater than 15%. Because this is an existing cultivation site, the CMMLUO does not require cultivation to occur on slopes of 15% or less.
 - e) The cultivation of cannabis will not result in additional conversion of timberland. Approximately 0.90 acre of timberland was converted to cultivation area prior to 2018. A Timberland Conversion Evaluation Report (TCER) was prepared by Timberland Resource Consultants to address unpermitted conversion. The report recommends treating a pile of slash and woody debris onsite (**Condition 21**).
 - f) 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, more than 300 feet from any offsite residence, and more than 600 feet from any school, church, public park, or Tribal Cultural Resource.

6. FINDING

The cultivation of 24,634 SF of 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) All access roads on the property shall be maintained in compliance with the State Water Resources Control Board Order WQ 2019-0001-DWQ, which states that all access roads are to be hydrologically disconnected to receiving waters. To ensure that roads meet this condition, the applicant shall implement the erosion control measures outlined in the WRPP that address the adverse effects of degraded road quality on adjacent water features. Erosion control measures include installing four (4) rocked rolling dips on a road segment experiencing surface rilling and installing rock armoring to fortify two (2) existing culverts (**Condition 11**).
 - 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) The location of the proposed cannabis cultivation is more than 300 feet from the nearest off-site residence.
- d) Irrigation water is sourced from one (1) groundwater well (Permit No. 19/20-0813) that is hydrologically disconnected from surface water, as determined by an evaluation performed by David N. Lindberg, Certified Engineering Geologist (CEG, License No. 1895).
- e) Provisions have been made in the applicant's proposal to protect water quality through yearly site inspection, monitoring, and reporting to the NCRWQCB. The site shall be inspected and monitoring reports prepared for the following activities: 1) before and after any alteration or upgrade to a given stream crossing, road segment, or other controllable sediment discharge site; 2) prior to the start of the water year (October 15) to evaluate site preparedness for storm events and associated storm water runoff; 3) site inspection no later than December 15 of each year; and 4) following any rainfall event with an intensity of 3 inches of precipitation within any 24 hour period. Annual reporting shall be submitted to the NCRWQCB by March 31 of each year (**Condition 12**). Therefore, runoff to adjacent property and infiltration of water to groundwater resources will not be adversely 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:

The parcel contains one (1) existing residential unit. The approval of cannabis cultivation on this parcel will not conflict with the operation or use of the existing residential units onsite.

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:

The project site is located in the Middle Main Eel Planning Watershed, which under Resolution 18-43 is limited to 360 permits and 125 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 97 permits and the total approved acres would be 42.63 acres of cultivation.

APPEAL

Appeal Issue

The appellant requests the removal of condition of approval A25 from the Planning Commission Decision of July 7, 2022, which states:

Within one year of project approval the applicant shall provide a plan for review and approval by the Planning and Building Department to implement a rainwater catchment system capable of providing 20% of the total water required for cultivation. Within two years of project approval the rainwater catchment system must be operational and provide at least 20% of the irrigation water.

The Appellant also requests removal of condition of approval A11 from the Planning Commission Decision of July 7, 2022, which states:

To ensure that no water is drawn from Well WCR2018-010387, as identified in the report prepared by David N. Lindberg, CEG (May 3, 2022), the applicant shall cap this well within three (3) weeks of project approval.

9. FINDING

The appellant's assertion that the addition of the condition for constructing rainwater catchment to provide 20% of irrigation needs was without any factual basis and not necessary is correct.

EVIDENCE

- a) Prior the July 7, 2022, Planning Commission meeting the requirement for 20% of the irrigation water needing to come from rainwater catchment had not been applied to any cannabis permit.
- b) The Planning Commission found: "It is necessary to have a combination of water sources in light of the historic drought and climate change, so a condition has been added to require rainwater catchment for at least 20% of the irrigation water to protect public health safety and welfare."
- c) The Planning Commission did not cite to any specific project related facts to support the application of this condition regarding rainwater catchment. The concerns described in finding 6(f) for the Conditional Use Permit were already addressed in the mitigation and monitoring program associated with the Mitigated Negative Declaration and the adoption of the Commercial Medical Marijuana Land Use Ordinance (CMMLUO). Specifically, resolution 16-14 adopted by the Board of Supervisors on January 26, 2016, finding that the CMMLUO is consistent with the General Plan and adopting the mitigated negative declaration with substitute mitigation measures and a mitigation monitoring program included a provision to restrict cultivation activities as a contemporaneous response to any changing environmental condition.
- d) The proposed water source was a well, which produced 80 gallons per minute with 5 feet of draw down. The well was analyzed by geologist who found that the well was not connected to surface water and there were not other wells in the vicinity that would be affected by this well. The well was deemed fully adequate to provide irrigation water for the cannabis use without having a detrimental effect upon the environment.
- e) No new information was presented to the Planning Commission or to the Board of Supervisors which contracts the ability of the well to provide a sustainable water supply without harming the environment. There is no environmental concern or policy objective to require an additional water supply.
- f) The CMMLUO does not require applicants to use a particular water source or combination of water sources.
- g) Existing cannabis regulations provide various performance standards for water, including forbearance and storage for surface water diversions. The Commercial Cannabis Land Use Ordinance (CCLUO) prohibits water diversions or new cultivation in impacted watersheds. However, the cannabis

regulations do not dictate that an operation use a specific source or combination of sources for irrigation water.

10. FINDING

The appellant's assertion capping the second well is not appropriate and is not related to the cannabis permit is correct. The requirement to cap the well is unnecessary.

- a) The second well is not contaminated. It has high manganese which is not good for farming but is good for fire suppression.”
- b) The second well is not proposed for cannabis irrigation and other conditions of approval require water meters and logs which will allow for monitoring and inspection.
- c) The well known as WCR2018-010387 is permitted (18/19-0285) and there is no nexus to the cannabis project to justify capping. The reported high manganese makes it unlikely the applicant would use this well for irrigation. As the Appellant points out in their appeal, this permitted well could still be used for other beneficial purposes on the property such as recharging fire suppression tanks and department staff agrees.

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

1. 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 Dyerville Farms, LLC and found the project consistent with the adopted MND pursuant to Section 15164 of the State CEQA Guidelines.
2. Finds that the project is consistent with the Humboldt County General Plan and the Humboldt County Zoning Ordinance.
3. Approves the Appeal filed by Dyerville Farms, LLC.
4. Approves the Conditional Use Permit for Dyerville Farms, 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 August 30, 2022, by the following vote:

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

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

Virginia Bass,
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: September 27, 2022

By Hunter Deputy

EXHIBIT 1

ATTACHMENT 1

RECOMMENDED CONDITIONS OF APPROVAL

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

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 the staff review. Permit conformance with conditions must be demonstrated prior to release of building permit or initiation of use, and at the 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**, it is requested that the applicant submit a check or money order for the required filing fee in the amount of \$50 payable to the Humboldt County Clerk/Recorder. If this payment is not received within this time period, the Department will file the 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 #24. 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.

7. The approved building plans shall meet all applicable fire codes, including fire suppression infrastructure requirements deemed necessary for the project by the Building Inspection Division. Sign-off on the Occupancy Permit by the Building Division shall satisfy this requirement.
8. The Humboldt County Department of Environmental Health (DEH) has on file an incomplete septic system permit application. The applicant must complete the septic system permit application associated with a building permit referral. Applicant must complete the septic system permit application and install an approved system within three (3) months of project approval.
9. Within thirty (30) days of project approval, the applicant shall revise the site plan to clearly show the total nursery area onsite used for propagation will not exceed the standard 10% threshold recommended by Humboldt County. To comply with the 10% threshold, the applicant shall be limited to 2,465 SF of nursery/propagation area in total.
10. The applicant shall install a water monitoring device on the water source (permitted groundwater well) and each water storage tank. Water monitoring information shall be reported to the Humboldt County Department of Planning and Building as part of the annual inspection.
11. The applicant shall comply with the recommendations, corrective actions, and timelines outlined in the Water Resources Protection Plan (WRPP).
 - a. Install four (4) rocked rolling dips on a road segment experiencing surface rilling.
 - b. Install rock armoring to fortify two (2) existing culverts.
12. The applicant shall comply with monitoring and reporting measures outlined in the WRPP.
 - a. The site shall be inspected and monitoring reports prepared for any of the following activities:
 - i. Before and after any alteration or upgrade to a given stream crossing, road segment, or other controllable sediment discharge site.
 - ii. Prior to the start of the water year (October 15) to evaluate site preparedness for storm events and associated storm water runoff.
 - iii. Site inspection no later than December 15 of each year.
 - iv. Following any rainfall event with an intensity of three (3) inches of precipitation within any 24-hour period.
 - b. Annual reporting shall be submitted to the North Coast Regional Water Quality Control Board (NCRWQCB) by March 31 of each year.
13. The applicant shall comply with the recommendations, corrective actions, and timelines outlined in the Lake and Streambed Alteration Agreement (LSAA Notification No. 1600-2017-0147-R1).
 - a. Armor the inlet/outlet and banks at Crossing 1 to minimize erosion.
14. As specified by the LSAA, the applicant shall complete land survey validation to determine the remediation party responsible for the onstream pond on or adjacent to the project area. The applicant shall submit appropriate land survey validation to Humboldt County within two (2)

months of project approval documenting ownership of the pond. If the pond is not under the ownership of the property owner or applicant associated with this project, no further action is required. If the pond is under the ownership of the property owner or applicant associated with this project, the applicant shall coordinate with CDFW to determine appropriate actions to remediate the pond.

15. The applicant shall comply with the following requirements outlined in the LSAA.
 - a. Document all activities that occur within waterways at the project site.
 - b. All work shall be confined to the dry weather period, from June 15 through October 1 of each year.
 - c. Water diversion structures shall be constructed and maintained to not inhibit the movement of aquatic life.
 - d. Erosion and runoff protection measures shall be placed and maintained along streambanks prior to any construction activities.
 - e. Project work shall be completed by no later than August 2, 2022. If work cannot be completed by this date, the applicant shall complete a revised LSAA signed by CDFW certifying an extension of the deadline.
16. The applicant shall implement the Inadvertent Discovery Protocol. In the event of the accidental discovery of historical artifacts or human remains, all work shall halt within 100 feet of the find and a qualified professional archaeologist and tribal representatives shall be contacted immediately to evaluate the find and clear the site for all further activities.
17. COUNTY ROADS – FENCES AND ENCROACHMENTS – All fences and gates shall be relocated out of the county right-of-way. All gates shall be set back sufficiently from the county road so that vehicles will not block traffic when staging to open/close the gate. In addition, no materials shall be stored or placed in the county right-of-way. This condition shall be completed to the satisfaction of DPW prior to commencing operations, final sign-off for a building permit, or DPW approval for a business license.
18. COUNTY ROADS – DRIVEWAY AND PRIVATE ROAD INTERSECTION VISIBILITY – All driveways and private road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance). This condition shall be completed to the satisfaction of the Department of Public Works (DPW) prior to commencing operations, final sign-off for a building permit, or DPW approval for a business license.
19. Public Works – Airport – Part 1 (ALUCP) – The applicant shall cause to be dedicated to the County of Humboldt an avigation easement. The avigation easement shall be on the form prescribed by the Department of Public Works. This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license. The applicant shall conduct all operations consistent with the ALUCP and in a manner that does not attract flocks of birds. Open ponds shall not be permitted.
20. The applicant shall comply with the recommendations, corrective actions, and timelines outlined in the Timberland Conversion Evaluation Report (TCER). All slash piles and woody debris near Cultivation Site 2 shall be treated using one of the following methods: burying, chipping and spreading, piling and burning, or removing from the site.

21. The applicant shall contact the Garberville Fire Protection District and furnish written documentation from that agency of the available emergency response and fire suppression services and any recommended project mitigation measures. Mitigation measures shall be incorporated into the project, if applicable. If emergency response and fire suppression services are not provided, the applicant shall cause to be recorded an "ACKNOWLEDGMENT OF NO AVAILABLE EMERGENCY RESPONSE AND FIRE SUPPRESSION SERVICES" for the parcel(s) on a form provided by the Humboldt County Planning and Building Department. Document review fees as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors will be required.
22. 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.
23. 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 noise from background, generator, greenhouse fan, or other operational activities and equipment must not result in the harassment of Northern Spotted Owl (NSO) 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 NSO 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.
2. 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, 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.
3. The use of synthetic netting for purposes of erosion control is prohibited. To minimize the risk of wildlife entrapment, the applicant 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.
4. All refuse shall be contained in wildlife proof storage containers at all times, and disposed at an authorized waste management facility.
5. Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and shall be allowed to leave the work site unharmed.

6. The use of anticoagulant rodenticide is prohibited.
7. 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.
8. All components of the 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. Any changes shall require modification of this permit except where consistent with Humboldt County Code Section 312-11.1, Minor Deviations to Approved Plot Plan. When offsite processing is chosen to be the preferred method of processing, this permit shall be modified to identify the offsite licensed facility.
9. Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws and regulations as set forth in the CMMLUO and Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), as applicable to the permit type.
10. 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.
11. The permittee shall have 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.
12. The permittee shall be in 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.
13. The permittee shall ensure 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).
14. The permittee shall maintain enrollment in Tier 1, 2, or 3, certification with North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R1-2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.

15. The permittee shall 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).
16. The permittee shall 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.
17. The permittee shall 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).
18. The permittee shall pay all applicable fees for application review to ensure conformance with conditions and annual inspection fees.
19. 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.
20. Fertilizer, pesticide, fungicide, rodenticide, or herbicide shall be properly stored, handled and used in accordance with applicable regulations.
21. The master log books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
22. The permittee shall 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

23. Pursuant to the MAUCRSA, Health and Safety Code Section 19322(a)(9), an applicant seeking a cultivation license shall "provide a statement declaring the applicant is an 'agricultural employer,' as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law."
24. 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).
25. 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.
26. 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. Onsite housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.
27. 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. Onsite housing, if any
28. Term of Commercial Cannabis Activity Special Permit. Any Commercial Cannabis Activity 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.
29. 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 re-inspection to determine whether or not the permit holder has cured all issues of noncompliance. Failure to request re-inspection 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.

30. 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.
31. 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.
32. 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.
33. 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 #B.11 has been executed and the corrective actions pursuant to the agreement are being undertaken. Once building permits have been secured and/or the use initiated pursuant to the terms of the agreement, the use is subject to the

Permit Duration and Renewal provisions set forth in Conditions of Approval #B.29 and B.30 of the Ongoing Requirements/Development Restrictions, above.

3. If cultural resources are encountered during construction activities, the contractor onsite 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 aware that the Federal Government considers the cultivation of cannabis to be an illegal activity. This project is accessed by using roads that pass-through lands owned by the Federal Government. The Federal Government may not allow the applicant to use these roads to transport cannabis. In such case, Humboldt County will not provide relief to the applicant. Approval of this permit does not authorize transportation of cannabis across Federal lands.