

**Attachment A**

**Draft Board of Supervisors Resolution**

**BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA**

**Certified copy of portion of proceedings; Meeting on June 5, 2018**

RESOLUTION No. \_\_\_\_ - \_\_\_\_

RESOLUTION OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF HUMBOLDT  
CERTIFYING COMPLIANCE WITH THE  
CALIFORNIA ENVIRONMENTAL QUALITY ACT  
AND APPROVING WITH CONDITIONS THE  
QUANTUM GENETIC SPECIAL PERMIT APPLICATION  
FILE #203-231-003; CASE # SP16-328A

**WHEREAS**, Quantum Genetics submitted an application and evidence application and evidence in support of approving the Special Permit to permit a new 20,000 square-foot wholesale nursery building; and

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

**WHEREAS**, the project is subject to environmental review pursuant to the California Environmental Quality Act (CEQA); and

**WHEREAS**, Attachment 2 in the Planning Division Planning Commission staff report includes substantial evidence in support of making all of the required findings for approving the proposed Special Permit (Case Number SP 16-328); and

**WHEREAS**, a public hearing was held on the matter before the Humboldt County Planning Commission on February 1, 2018.

**WHEREAS**, the Planning Commission, has considered the IS/MND and Mitigated Negative Declaration and the Mitigation and Monitoring Report in Attachment 4. The Planning Commission does not adopt the IS/MND and Mitigated Negative Declaration because it has determined to deny the project; and

**WHEREAS**, the Planning Commission denied the Special Permit Case Numbers SP 16-328 based on the submitted evidence and public testimony finding that they could not make all of the required findings set forth in Section 312-17.1 of the Humboldt County Zoning Regulations; and.

**WHEREAS**, Board of Supervisors held a public hearing de novo on June 5, 2018 to consider the project application; and

**WHEREAS**, Board of Supervisors has considered the issues of appeal and staff recommendations regarding additional conditions of approval.

**NOW, THEREFORE,** be it resolved, determined, and ordered by the Board of Supervisors that:

1. The Board of Supervisors has considered the IS/MND and Mitigated Negative Declaration and the Mitigation and Monitoring Report in Attachment D, and finds that there is no substantial evidence that the proposed project will have a significant effect on the environment, and that the Mitigated Negative Declaration reflects the County's independent judgement and analysis; and
2. The Board of Supervisors adopts the IS/MND and Mitigated Negative Declaration in Attachment D and the Mitigation Monitoring Report in Attachment D, as required by Sections 15074(b) and 15074(d) of the CEQA Guidelines; and
3. The findings in Exhibit A to this Resolution support approval of Case Number SP16-328A based on the submitted evidence; and
4. Special Permit Case Number SP 16-328A is approved as conditioned in Exhibit B to this Resolution.

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

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

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Ryan Sundberg, 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: \_\_\_\_\_, 2018

By \_\_\_\_\_  
Deputy

**Exhibit A**

**Evidence Supporting the Required Findings**

**1. The proposed development must be consistent with the General Plan.** The following table identifies the substantial evidence which supports finding that the proposed development is in conformance with all applicable policies and standards of the Humboldt County General Plan.

<b>Relevant Plan Section(s)</b>	<b>Summary of Applicable Goal, Policy or Standard</b>	<b>Evidence Which Supports Making the General Plan Conformance Finding</b>
Housing Chapter 8	Goals and policies contained in this Element seek to identify existing and projected housing needs and establish goals, policies, standards and measures for the preservation, improvement, and development of housing.  Related policies: H-P3, Development of Parcels in the Residential Land Inventory.	The project does not involve residential development, nor is the project site part of the Housing element Residential Land Inventory.
Land Use Chapter 4  Land Use Designations Section 4.8	Urban land use planning should occur in areas of the County characterized by dense patterns of development.	The subject parcel is in the Fortuna Area Community Plan, and is not identified as within an urban development or urban expansion area.

Relevant Plan Section(s)	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
<p>Land Use Chapter 4 Section 4.8</p> <p>Land Use Designations Agriculture Exclusive (AE)</p>	<p>This plan designation applies to bottomland farms and lands that can be irrigated; also used in upland areas to retain agricultural character. Typical uses include dairy, row crops, orchards, specialty agriculture, and horticulture. Residential subdivision is not supported. Residential uses must support agricultural operation. Density range is 20-60 acres/unit.</p>	<p>The CMMLUO provides for the cultivation and processing of medical cannabis within the zoning districts where agriculture is a principally permitted use, with limits and in compliance with performance standards that will preserve space for more traditional agricultural activities that supply food and fiber contributing to a diverse economic base.</p> <p>The current parcel size is inconsistent with the minimum parcel size as defined in the General Plan, but has been determined to be a legal parcel and the proposed project does not involve further subdivision.</p> <p>The proposed action would permit a 20,000 sf wholesale medical cannabis nursery on a 9.9-acre parcel zoned AE, B-5(60). The land uses are consistent with the General Plan land use designation for the site and with the CMMLUO.</p>
<p>Safety Element Chapter 14</p> <p>Flooding</p>	<p>Goals and policies contained in this Chapter relate to the use of natural drainage channels and watersheds that are managed to minimize peak flows in order to reduce the severity and frequency of flooding. (S-G3)</p> <p>Related policies include: S-P12, Federal Flood Insurance Program; S-P13, Flood Plains; S-P15, Construction Within Special Flood Hazard Areas</p>	<p>The Flood Insurance Rate Map in which the project site is located shows the project site is outside of the FEMA mapped areas subject to flooding. There are no other risks associated with flooding.</p>

<b>Relevant Plan Section(s)</b>	<b>Summary of Applicable Goal, Policy or Standard</b>	<b>Evidence Which Supports Making the General Plan Conformance Finding</b>
<p>Safety Element Chapter 14</p> <p>Geologic &amp; Seismic</p>	<p>Goals and policies contained in this Chapter relate to communities that are designed and built to minimize the potential for loss of life and property resulting from natural and manmade hazards; and to prevent unnecessary exposure to areas of geologic instability, floodplains, tsunami run-up areas, high risk wildland fire areas, and airport areas planned and conditioned to prevent unnecessary exposure of people and property to risks of damage or injury (S-G1, S-G2)</p> <p>Related policies: S-P11. Site Suitability, S-P7. Structural Hazards,</p>	<p>The project site is not located in a mapped Alquist-Priolo fault zone nor is subject to liquefaction. The Geotechnical Study prepared for the project site identified potential risks related to seismic instability. Mitigation measure GEO-1 is incorporated to reduce potentially significant impacts.</p> <p>The steep slopes in the southern portion of the parcel are subject to landslide, but the proposed project would be over 200 feet from the edge of the bluff and would not be affected.</p>

Relevant Plan Section(s)	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
<p>Safety Element Chapter 14</p> <p>Fire Hazards</p>	<p>Goals and policies of this Chapter encourage development designed to reduce the risk of structural and wildland fires supported by fire protection services that minimize the potential</p> <p>Related policies: S-P19, Conformance with State Responsibility Areas (SRA) Fire Safe Regulations;</p>	<p>The parcel is in an area designated as low wildfire risk. The analysis in the IS/MND identified fire hazards associated with the project to be less than significant. The subject property is in the Fortuna Fire Protection District, but is in the State Fire Responsibility Area for fire protection. CAL-FIRE provided a standard response comment letter for the project, which includes minimum requirements for development with regards to meeting fire safety standards. The requirements have been incorporated as conditions of approval to the permit. The Humboldt County Fire Safe Ordinance (Section 3111-1 <i>et seq.</i>) establishes development standards for minimizing wildfire danger in "state responsibility" designated areas. The Fortuna Fire Protection District reviewed and approved the road access in a letter dated June 9, 2017. The proposed nursery would be constructed of a metal building with slab-on-ground floors, which are non-flammable materials. There is an existing fire department connection with blue and white fire water reflective posts on the site, near the emergency-accessible turnaround on the site.</p>
<p>Noise Chapter 13</p>	<p>Goals and policies contained in this Chapter discourage incompatible uses within communities and reduce excessive noise through the application of standards (N-G1, N-G2)</p> <p>Related policies: N-P1, Minimize Noise from Stationary and Mobile Sources; N-P4, Protection from Excessive Noise.</p>	<p>The subject parcel is not located in an area that requires special noise attenuation measures, and does not include the use of generators. However, the applicant may install generators for back up use. The applicant would be required to conform to noise standards, and provide the County with the generator location and projected use information. This is included as Mitigation Measure NOI-2. No long-term noise impacts are anticipated as a result of the project.</p>



<b>Relevant Plan Section(s)</b>	<b>Summary of Applicable Goal, Policy or Standard</b>	<b>Evidence Which Supports Making the General Plan Conformance Finding</b>
<p>Safety Element, Chapter 14 Airport Safety</p>	<p>Regulate and plan land use around airports according to the Airport Land Use Compatibility criteria matrix, and ensure that future development within the community is compatible with the airport and its associated noise and hazard nuisances.</p> <p>The subject parcel is in the Airport Approach Zone of Rohnerville Airport and is subject to restrictions on building height (34 feet), people per acre (60), and agricultural uses that attract bird flocks.</p>	<p>The project has been reviewed by the County Public Works Land Use Division, and has been determined to be consistent with the Airport Land Use Compatibility Zoning, and there is an existing avigation easement (agency comments attached). The proposed nursery building would be approximately 24 feet tall; with all projects on the site completed, the maximum number of people on the 10-acre property would be 1 (1.1 people/acre), which is consistent with the zoning requirements. As analyzed in the IS/MND for the project, excessive light from the nursery could pose a safety hazard. Mitigation Measure AES-1 has been incorporated to reduce the potentially significant impact. The pond permitted under ZCC 16-013 could pose a safety hazard with the airport by attracting birds and/or producing glare. The pond would be covered to discourage birds and prevent glare, or the water would be fully enclosed in water storage tanks. Mitigation Measure BIO-1 has been incorporated to reduce the potentially significant impacts.</p>

<b>Relevant Plan Section(s)</b>	<b>Summary of Applicable Goal, Policy or Standard</b>	<b>Evidence Which Supports Making the General Plan Conformance Finding</b>
Water Resources Element, Chapter 11 Water Resources	<p>Maintain or enhance the quality of the County's water resources and the fish and wildlife habitat utilizing those resources.</p> <p>Maintain a dependable water supply, sufficient to meet existing and future domestic, agricultural, industrial needs and to assure that new development is consistent with the limitations of the local water supply.</p>	<p>CDFW has noted that the well on the property is likely hydrologically connected to a surface stream and has requested that the applicant execute a Streambed Alteration Agreement for the well. The applicant has applied for a Streambed Alteration Agreement (LSAA), and will confirm completion with the County as a condition of approval of this SP. Mitigation Measure BIO-3 requires that the applicant obtain a Streambed Alteration Agreement from CDFW and a Surface Water Diversion Permit from the State Water Resources Control Board. If hydrologically connected, use of the well for cultivation including nursery operations will require forbearance as specified in the LSAA or as provided in Section 314-55.4.11(i).</p>

<b>Relevant Plan Section(s)</b>	<b>Summary of Applicable Goal, Policy or Standard</b>	<b>Evidence Which Supports Making the General Plan Conformance Finding</b>
<p>Conservation and Open Space Chapter 10</p> <p>Biological Resources Section 10.3</p>	<p>Goals and policies contained in this Chapter relate to mapped 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)</p> <p>Related policies: BR-P1. Compatible Land Uses, BR-P5. Streamside Management Areas.</p>	<p>The Biological Resource maps of the Framework Plan do not identify any sensitive or critical habitat areas on the project site.</p> <p>CDFW has expressed concern that the cover on the pond permitted under ZCC 16-013 may entrap wildlife, and that the pond may provide habitat for invasive bullfrogs (see agency comments, attached). CDFW has requested review of the design of the pond cover and that the applicant submit a bullfrog management plan. The applicant has not installed the pond, and may substitute water tanks. The IS/MND includes an analysis of the potential impacts associated with installation of the water storage system. Mitigation Measure BIO-1 requires coordination with CDFW and the County Public Works Department regarding the design of the storage structure, and includes maintenance standards to prevent and manage an increase in insect populations and bullfrogs. Mitigation Measure BIO-2 includes measure to avoid entrapment of wildlife in water pumps.</p> <p>There is a small wetland and an unnamed creek in the northern one-third of the property. The proposed nursery is &gt;200 feet from those features, and the proposed location of the farm dwelling is 100 feet from the features. CDFW recommends that a 100-foot setback limit from the wetland/stream be fenced during construction of the dwelling that is contemplated for the property, but is not included in the proposed action. Mitigation Measure BIO-4 requires fencing be installed to prevent impacts to the Streamside Management Area.</p>

<b>Relevant Plan Section(s)</b>	<b>Summary of Applicable Goal, Policy or Standard</b>	<b>Evidence Which Supports Making the General Plan Conformance Finding</b>
<p>Conservation and Open Space Chapter 10</p> <p>Cultural Resources Section 10.6</p>	<p>Goals and policies contained in this Chapter relate to the protection and enhancement of significant cultural resources, providing heritage, historic, scientific, educational, social and economic values to benefit present and future generations (CU-G1, Protection and Enhancement of Significant Cultural Resources)</p> <p>Related policies: CU-P1. Identification and Protection, CU-P2. Native American Tribal Consultation].</p>	<p>The project permitted under ZCC 16-013 was referred to the Northwest Information Center. The current project was not referred, as it is located on the same parcel; however, the County has consulted with the tribes for the proposed project. The findings of a cultural resources study conducted in October 2016 covering 100% of the project site identified no cultural, tribal, or historic resources within the project site. As noted in the IS/MND prepared for the project, potentially significant impacts could occur if previously unknown resources are discovered during construction or operation. The standard inadvertent discovery condition is included as Mitigation Measure CUL-1.</p>

Relevant Plan Section(s)	Summary of Applicable Goal, Policy or Standard	Evidence Which Supports Making the General Plan Conformance Finding
Circulation Chapter 7	<p>Goals and policies contained in this Chapter relate to a balanced, safe, efficient, accessible and convenient circulation system that is appropriate for each type of unincorporated community (C-G1, Goals and policies contained in this Chapter relate to a balanced, safe, efficient, accessible and convenient circulation system that is appropriate for each type of unincorporated community (C-G1, C-G2); coordinated planning design, development, operations, and maintenance between the County and other transportation system service providers (C-G3); and access for all transportation mode types with improved opportunities to move goods within, into and out of Humboldt County (C-G4, C-G5)</p> <p>Related policies: C-P3. Consideration of Transportation Impacts in Land Use Decision Making. C-G2); coordinated planning design, development, operations, and maintenance between the County and other transportation system service providers (C-G3); and access for all transportation mode types with improved opportunities to move goods within, into and out of Humboldt County (C-G4, C-G5)</p> <p>Related policies: C-P3. Consideration of Transportation Impacts in Land Use Decision Making.</p>	<p>The subject parcel accesses Rohnerville Road, which is a County-maintained Road, via a private driveway and Triple K Place, which is not a County-maintained road. The applicant has submitted a Road Evaluation Report (received by the County on June 30, 2017) which confirms that Triple K Place can accommodate the expected vehicle traffic from the proposed project, and confirms that the private road can serve as a functional equivalent of a Category 4 roadway with the addition of turnouts. The Fortuna Fire Protection District reviewed and approved the road access in a letter dated June 9, 2017.</p> <p>The applicant has proposed to widen the full length of Triple K Place to the subject property to meet the Category 4 standard. This has been included as a condition of project approval.</p>

**2. Zoning Compliance and 3. Conforms with applicable standards and requirements of these regulations:** The following table identifies the evidence which supports finding that the proposed development is in conformance with all applicable policies and standards in the Humboldt County Zoning Regulations.

Zoning Section	Summary of Applicable Requirement	Evidence
§312-1.1.2	Section 314-107.2 allows for substandard lots to be developed when lawfully created.	The parcel was lawfully created through a Deed recorded on September 7 <sup>th</sup> 1883, in compliance with all applicable state and local subdivision requirements.
§314-7.1 Agricultural Exclusive (AE)	The Agricultural Exclusive 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.	Wholesale nurseries are an approved use in the AE zone. The proposed action would permit a wholesale nursery consistent with the AE Zone and the CMMLUO.
§314-17.1 Special Building Site Combining Zone (B-5(60))  Minimum Lot Size: 60 acres	The Special Building Site Combining Zoning modifies the building site area of the principal zone. The building site area for the B-5 Zone is as specified on the zoning maps designating any such zone, except that in no case shall these requirements be less than those required under the B-4 requirements.	The subject parcel is 9.9 acres. Humboldt County Code §314-107.2 allows for substandard lots to be developed when lawfully created, and when they have not been merged with an adjoining property. A review of the Department's records and documents of records do not indicate the subject parcel has been merged with an adjoining parcel.
Minimum Lot Width:	100 feet	Approximately 300 feet wide
Maximum Lot Depth:	None specified	N/A
Max. Lot Coverage:	35%	Approximately 2.75 acres of coverage (28% of lot)
Min. Yard Setbacks (through the SRA requirements):	Front: 30 feet Rear: 20 feet Side: 10% of average lot width but not more than 20 feet shall be required.	Front: >30 feet Rear: >20 feet Side: 30 feet

Zoning Section	Summary of Applicable Requirement	Evidence
Max. Building Height: §333-4 Airport Approach Zone Building Height	No structure shall be erected or altered to a height which would project above the approach surface.	In this case, the building height limit is 34 feet. The proposed action would permit a new building approximately 24 feet in height.
§314-61.1 Streamside Management Area (SMA)	<p>Placement of soil within SMAs shall be prohibited, except where specifically authorized by the SMA ordinance.</p> <p>Development within SMAs may include wildlife enhancement and restoration projects.</p> <p>The SMA of perennial streams outside of urban development and expansion areas is defined as 100 feet from the stream transition line.</p>	<p>There is a small wetland and an unnamed creek in the northern one-third of the property. The proposed nursery would be &gt;200 feet from those features, and the proposed location of the farm dwelling would be 100 feet from the features. CDFW recommends that a 100-foot setback limit from the wetland/stream be fenced during construction of the dwelling that is contemplated for the property, but is not included in the proposed action. Mitigation Measure BIO-4 requires fencing be installed to prevent impacts to the Streamside Management Area.</p>
§314-109.1 Off-Street Parking	<p>Off Street Parking for Agricultural use*: Parking space per employee at peak shift. A minimum of three parking spaces are required.</p> <p><i>*Use for this activity is not specified. Per Section 314-109.1.2.9, the Director may fix the required number of parking spaces based on standards for most comparable use.</i></p>	<p>It is anticipated that the requested permit, along with the existing on-site cultivation operation, there will be 4 to 5 full time and 4 to 5 part time employees. The applicant proposes to have the employees carpool on a regular basis. The land use on the site is agricultural, and the Code is silent as to the requirement for agricultural employees. The most comparable standard for employees in this situation is one space for each employee at peak shift (per Section 314-109.1.3.4.2 - Manufacturing).</p> <p>There are currently 10 standard parking spaces and two ADA accessible spaces associated with the existing operations. The project includes the addition of two standard spaces and one ADA-compliant space (15 total spaces). This will comply with the standard.</p>

**314-55.4 Commercial Cultivation, Processing, Manufacturing and Distribution of Cannabis for Medical Use Inland Land Use Regulation (CMMLUO)**

§314-55.4.8.2	Commercial cannabis cultivation is allowed on parcels zoned AE, with no parcel size limitation. In all zones where cultivation is allowed consisting of timberland, the commercial cultivation of cannabis for medical use shall only be permitted within a 3-acre conversion exemption area, or non-timberland open area.	There are no existing trees on the project site. The proposed project will not result in the conversion of timberland.
§314-55.4.8.7 Nurseries	Nurseries producing commercial cannabis nursery products for bulk wholesale sale or to supply retail nursery outlets held under the same license shall be a permitted use in the AG or AE zoning district, subject to a Special Permit.	The proposed action would permit a new 20,000 sf commercial wholesale nursery on a parcel zoned AE. The applicant will comply with all conditions of the CMMLUO, as specified in the recommended conditions of approval.
§314-55.4.8.10 Permit Limit	No more than four commercial cannabis activity permits may be issued to a single person.	According to records maintained by the Department, the applicant has applied for two cannabis activity permits, less than the maximum to which the applicant is entitled.
§314-55.4.10 Application Requirements	Identifies the Information Required for All Applications	Attachment 3 to the Planning Commission staff Report identifies the information submitted with the application. Contents of the application are on file. All outstanding items are included as conditions of approval.
§314-55.4.11 Performance Standards	Identifies the Performance Standards for Cannabis Cultivation Activities	All applicable performance standards are included as conditions of project approval. They are required to be met throughout the timeframe of the permit.
§314-55.4.17 Sunset Date	No application for any Use Permit pursuant to the CMMLUO shall be processed for issuance or approval that is received after December 31, 2016. Deadline	The applicant filed the Special Permit application on December 14, 2016.



**4. Public Health, Safety, and Welfare:** The following table identifies the evidence which supports finding that the proposed location of the use and 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.

Code Section	Summary of Applicable Requirement	Evidence that Supports the Required Finding
§312-17.1.4 Special Permit Findings	The proposed development will not be detrimental to the public health, safety and welfare, and will not be materially injurious to properties or improvements in the vicinity.	<p>All responding referral agencies have either provided no comment or recommended approval of the proposed use with conditions of approval.</p> <p>The submitted evidence supports the finding that the project will not be materially injurious to properties or improvements in the vicinity because: 1) The project is an agricultural use and is compatible with the AE land use designation; 2) The project complies with the requirements of the CMMLUO, is an allowed use and meets the development standards of the AE Zone; and 3) The project has been designed, conditioned and mitigated to avoid or reduce environmental effects to a level deemed less than significant.</p> <p>In particular, the project has been modified so that it will not impact shallow wells in the vicinity, as water for irrigation will be sourced solely from the dehumidifiers and rainwater catchment system associated with the cultivation and nursery operation. Further, use of the permitted well will adhere to a summer time forbearance period and its use for irrigation purposes will be terminated in 2019. To accommodate an anticipated increase in traffic associated with the wholesale nursery the project will widen and improve Triple K Place to a Road Category 4 standard with a gravel or better surface. Additionally, the project seeks to ameliorate neighborhood odor concerns by incorporating a ventilation/air filtration system into the nursery to minimize odor emission impacts to properties located in the vicinity.</p>

**5. Residential Density Target:** The following table identifies the evidence which supports finding that the proposed project will 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.

<b>Code Section</b>	<b>Summary of Applicable Requirement</b>	<b>Evidence that Supports the Required Finding</b>
312-17.1.5 Housing Element Densities	The proposed development shall 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.	The parcel was not included in the 2014 Housing Inventory.

**Exhibit B**  
**CONDITIONS OF APPROVAL**

Approval of the Special Permit is conditioned on the following terms and requirements, which must be satisfied before release of the Building Permit and initiation of operations

1. The applicant shall obtain all necessary building permits and grading permits from the Building Inspection Division (BID) for all structures and grading related to the cannabis cultivation and other commercial cannabis activity. The applicant/owner shall submit plans by a California-licensed engineer for the building permit and grading permit. All building and grading plans submitted for approval shall be consistent with those approved by the Planning Commission.
2. The applicant is responsible for obtaining all necessary County and State permits and licenses, and for meeting all of the requirements as set forth by other regulatory agencies.
3. The applicant shall submit one copy of the final Water Resource Protection Plan (WRPP) to the Planning and Building Department. The applicant shall implement all corrective actions detailed within the final WRPP developed for the parcel, prepared pursuant to Tier 2 enrollment under the North Coast Regional Water Quality Control Board (NCRWQCB) Cannabis Waste Discharge Regulatory Program, including those measures determined necessary during annual and periodic site inspections in accordance with the monitoring element. A copy of the reporting form portion of the Mitigation and Reporting Program (MRP) shall be submitted annually to the Planning and Building Department concurrent with the submittal to the NCRWQCB. A letter or similar communication from the NCRWQCB or the Third Party Consultant verifying that all the requirements in the MRP have been met will satisfy this condition.
4. The applicant shall obtain a Streambed Alteration Agreement from CDFW for use of the well (see Mitigation Measure BIO-3 in Exhibit A). If deemed to be jurisdictional by CDFW, the well when used for cultivation will be subject to forbearance as specified in the LSAA or per the standard set forth in the CMMLUO.
5. 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.
6. 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.
7. The development and operation of the proposed wholesale nursery facility shall comply with mitigation measures set forth in the Mitigation and Monitoring Reporting Program (Exhibit A to Attachment 1).
8. Applicant is to obtain enrollment in PG&E's Solar Choice Plan or other qualified carbon offset program for any portion of power used for the indoor nursery operation not from

renewable sources for the life of the project. Evidence of enrollment and energy use shall be maintained for inspection by County.

9. Within five (5) days of the effective date of the approval of this Special Permit, the applicant shall submit a check to the Planning Division payable to the Humboldt County Recorder in the amount of \$2,330.75. Pursuant to Section 711.4 of the Fish and Game Code, the amount includes the \$2,280.75 Department of Fish and Wildlife (DFW) fee plus a \$50 document handling fee. This fee is effective through December 31, 2018, at such time the fee will be adjusted pursuant to Section 713 of the Fish and Game Code. Alternatively, the applicant may contact DF&W by phone at (916) 651-0603 or through the DF&W website at [www.dfg.ca.gov](http://www.dfg.ca.gov) for a determination stating the project will have *no effect* on fish and wildlife. If DF&W concurs, a form will be provided exempting the project from the \$2,280.75 fee payment requirement. In this instance, only a copy of the DFW form and the \$50.00 handling fee is required.
10. The applicant shall be responsible for ensuring that all exterior lighting be designed and maintained to eliminate any conflicts with the Rohnerville airport.
11. At least one water meter shall be installed on the water line providing irrigation flow to the nursery. The water meters shall have the capacity to measure at least 100,000 gallons of flow before resetting. The water meters shall be used to measure the amount of water provided to the cultivation area. A second meter is to be installed on the water line connected to the well to show that no water is being drawn during the forbearance period. The meter shall be installed at a point on the water line that provides an accurate measurement of the water used for irrigation. Household water use at the caretaker's residence shall be separately metered if required, by the LSAA.
12. Irrigation water for the nursery shall come from water collected from dehumidifiers and rainwater catchment. Water from the onsite well shall not be used for nursery irrigation.
13. The applicant shall provide a revised plot plan which will indicate the location of the ADA-compliant bathroom, to be installed within the proposed cloning facility or as a separate stand-alone building adjacent to the Processing Building.
14. The applicant shall maintain and improve Triple K Place from the intersection with Rohnerville Road to the driveway on the subject property to a minimum width of 18' width with a gravel surface.
15. Ground disturbing construction and grading shall employ fugitive dust control strategies (e.g., watering or similar methods) to prevent visible emissions from exceeding NCAQMD regulations and prevent public nuisance.
16. The approved building plans shall address odor management by incorporating a ventilation/air filtration system which limits potential adverse odor emission impacts to employees and/or properties located in the vicinity. The system shall be designed, signed, and stamped by a mechanical engineer for review and approval by the Building Official.

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

1. All components of project shall be developed, operated, and maintained in conformance with the Project Description, the approved Plot Plan, the Plan of Operations, the Mitigated Negative Declaration and these conditions of approval. This permit authorizes a wholesale nursery only. Changes shall require modification of this permit except where consistent with Humboldt County Code Section 312-11.1, Minor Deviations to Approved Plot Plan.
2. Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws and regulations as set forth in the CMMLUO, as applicable to the permit type.
3. 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 & Building Department within one (1) year of issuance of the provisional clearance or permit. If good faith effort towards compliance can be shown within the two years following the issuance of the provisional clearance or permit, The Planning Department may, at the discretion of the Director, provide for extensions of the provisional permit to allow for additional time to meet the outstanding requirements.
4. Possession of a current, valid required license, or licenses, issued by any agency of the State of California in accordance with the MMRSA, and regulations promulgated thereunder, as soon as such licenses become available.
5. 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.
6. 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, Public Park, or Tribal Cultural Resources, except where a reduction to this setback has been approved pursuant to Section 55.4.11(d).
7. Maintain enrollment in Tier 1, 2 or 3, certification with the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. 2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
8. For cultivation area(s) for which no enrollment pursuant to NCRWQB Order No. 2015-0023 is required by that Order, comply with the standard conditions applicable to all Tier 1 dischargers.
9. Comply with the terms of any applicable Streambed Alteration (1600) Agreement obtained from the California Department of Fish & Wildlife.

10. Consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday – Friday, 9:00 am – 5:00 pm, excluding holidays).
11. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
12. Pay all applicable application and annual inspection fees.
13. Where surface water diversion (use of the well) provides any part of the water supply for irrigation of cannabis cultivation, permittee shall either: 1) forebear from any such diversion during the period from May 15th to October 31st of each year and establish on-site water storage for retention of wet season flows sufficient to provide adequate irrigation water for the size of the area to be cultivated, or 2) comply with the approved water management plan prepared by a qualified person such as a licensed engineer, hydrologist, or similar qualified professional, that establishes minimum water storage and forbearance period, if required, based upon local site conditions, or 3) adhere to the RWQCB approved Water Resources Protection Plan or other clearance issued by the agency. If the method of compliance changes during the term of the Conditional Use Permits, permittee shall notify the Planning and Building Department and furnish appropriate documentation of compliance with this standard.
14. The noise produced by a generator used for cannabis drying, curing, and processing shall not be audible by humans at neighboring residences. The decibel level for generators measured at the property line shall be no more than 50 decibels. Where applicable, sound levels must also show that they will not result in the harassment of Marbled Murrelet or Spotted Owl species. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service, and further consultation where necessary. Under these guidelines, generator noise may not exceed 50dB as measured at 100 feet from the generator or at the edge of the nearest Marbled Murrelet or Spotted Owl habitat, whichever is closer.
15. Storage of Fuel - Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, including the County of Humboldt's CUPA program, and in such a way that no spillage occurs.
16. All signage shall comply with Section 314-87.2 of the Humboldt County Code.
17. Pay all applicable taxes as required by the Humboldt County Commercial Marijuana Cultivation Tax Ordinance (Section 719-1 et seq.).
18. The operation shall participate in the Medical Cannabis Track and Trace Program administered by the Humboldt County Agricultural Commissioner, when available.

#### Performance Standards for Cultivation and Processing Operations

19. Pursuant to the 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.”

20. 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, California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).
21. Cultivators engaged in processing shall comply with the following Processing Practices:
  - I. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
  - II. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
  - III. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
  - IV. Employees must wash hands sufficiently when handling cannabis or use gloves.
22. All persons hiring employees to engage in commercial cannabis nursery activities shall comply with the following Employee Safety Practices:
  - i. Cultivation 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.
  - ii. Cultivation operations must visibly post and maintain an emergency contact list which includes at a minimum:
    - 8) Operation manager contacts;
    - 9) Emergency responder contacts;
    - 10) Poison control contacts.
  - iii. 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.
  - iv. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.

23. All cultivators shall comply with the approved Processing Plan as to the following:
- i. Processing Practices.
  - ii. Location where processing will occur.
  - iii. Number of employees, if any.
  - iv. Employee Safety Practices.
  - v. Toilet and handwashing facilities.
  - vi. Plumbing and/or septic system and whether or not the system is capable of handling increased usage.
  - vii. Drinking water for employees.
  - viii. Plan to minimize impact from increased road use resulting from processing.
  - ix. On-site housing, if any.

24. Term of Commercial Cannabis Activity Special Permit. Any Commercial Cannabis Cultivation Special Permit issued pursuant to the CMMLUO shall expire after one (1) year after date of issuance, and on the anniversary date of such issuance each year thereafter, unless an annual compliance inspection has been conducted and the permittees and the permitted site have been found to comply with all conditions of approval.

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 Special Permit or permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the non-compliance, 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 non-compliance. Failure to request reinspection or to cure any items of non-compliance 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 of the CMMLUO.

25. 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.

Permittee further acknowledges and declares that:

- (1) All commercial cannabis activity that I, my agents, or employees conduct pursuant to a permit from the County of Humboldt shall be solely for medical purposes and all commercial cannabis products produced by me, my agents, or employees are intended to be consumed solely by qualified patients entitled to the protections of the Compassionate Use Act of 1996 (codified at Health and Safety Code Section 11362.5); and
- (2) All cannabis or cannabis products under my control, or the control of my agents or employees, and cultivated or manufactured pursuant to local Ordinance and the



California Medical Marijuana Regulation and Safety Act will be distributed within the State of California; and

- (3) All commercial cannabis activity conducted by me, or my agents or employees pursuant to a permit from the County of Humboldt will be conducted in compliance with the California Medical Marijuana Regulation and Safety Act.
- (4) The above acknowledgements shall also apply to commercial cultivation, processing, manufacturing, and distribution of cannabis for adult use conducted in compliance with the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") (SB 94) and the Adult Use of Marijuana Act (AUMA) (Proposition 64).

26. 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:

- (1) Identifying information for the new Owner(s) and management as required in an initial permit application;
- (2) A written acknowledgment by the new Owner in accordance as required for the initial Permit application;
- (3) The specific date on which the transfer is to occur; and
- (4) Acknowledgement of full responsibility for complying with the existing permit; and
- (5) Execution of an Affidavit of Non-diversion of Medical Cannabis.

27. 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. This 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 construction under a valid building permit or use in reliance on the permit has commenced prior to such anniversary date. The period within which construction or use must be commenced may be extended as provided by Section 312-11.3 of the Humboldt County Code.
2. If cultural resources are encountered during ground disturbing activities, the contractor on site shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist as well as the appropriate Tribal Historic Preservation Officer(s) (THPOs) are to be contacted to evaluate the discovery and, in consultation with the applicant and lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

The Native American Heritage Commission (NAHC) can provide information regarding the appropriate Tribal point(s) of contact for a specific area; the NAHC can be reached at 916-653-4082. 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 NAHC will then be contacted by the Coroner to determine appropriate treatment of the remains pursuant to PRC 5097.98. Violators shall be prosecuted in accordance with PRC Section 5097.99

The applicant is ultimately responsible for ensuring compliance with this condition.

3. The applicant is responsible for receiving all necessary permits and/or approvals from other state and local agencies.
4. 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 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.
5. The Applicant is responsible for costs for post-approval review for determining project conformance with conditions 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 Department will send a bill to the Applicant for all staff costs incurred for review of the project for conformance with the conditions of approval. All Planning fees for this service shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
6. Any future re-use of the proposed 20,000-square-foot structure shall be limited to storage unless a modification to this project is approved to expand cannabis operations.
7. According to Cornell University Department of Animal Science, hemp and marijuana are considered toxic plants to goats. The applicant may consider this as methods to handle waste cannabis product are implemented.