

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; Meeting on October 27, 2020

Resolution No. \_\_\_-\_\_\_ Resolution of the Board of Supervisors of the County of Humboldt ADOPTING FINDINGS OF FACT, DETERMINING THE PROJECT IS SUBJECT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, ADOPTING A MITIGATED NEGATIVE DECLARATION, DENYING THE APPEAL FOR RECORD NO. PLN-2020-16655, APPROVING THE ADESA ORGANIC, LLC, CONDITIONAL USE PERMITS RECORD NO. PLN-11923-CUP, AND ADOPTING THE REVISED MITIGATION, MONITORING, AND REPORTING PROGRAM WITH SUBSTITUTED MITIGATION MEASURE BIO-2.

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

**WHEREAS**, an application for Conditional Use Permits has been submitted to the Humboldt County Planning and Building Department for the operation of 86,400 square feet of new mixed light commercial cannabis cultivation and associated infrastructure and improvements on APNs 315-145-002, 315-211-003 and 315-211-004, including improvements to an existing road which is located on APN 315-222-002; and

**WHEREAS**, the Planning and Building Department 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**, on September 3, 2020, the Planning Commission took the following actions:

1. Found the substitution mitigation measure BIO-2 as identified in the revised Mitigation Monitoring and Reporting Program more effective in avoiding potential significant impacts from potential American bullfrog infestation in the proposed rainwater catchment ponds, and that the proposed substitution mitigation measure will not in itself cause any potentially significant impact on the environment; and
2. Adopted the Mitigated Negative Declaration in Attachment 3 with the revised Mitigation Monitoring and Reporting Program in Attachment 1 Exhibit A for the Adesa Organics, LLC project; and
3. Found based on the submitted substantial evidence with the addition of a condition of approval that after two years of operation all power needed for the project must

be generated by renewable resources and renewable energy that the proposed project complied with the General Plan and Zoning Ordinance; and

4. Approved the Conditional Use Permits under record No. PLN-11923-CUP as conditioned.

**WHEREAS**, on September 17, 2020, Friends of the Mad River (“Appellant”) filed an appeal in accordance with the Appeal Procedures specified in Humboldt County Code Section 312-13 et seq.; and

**WHEREAS**, Humboldt County Code section 312-13.5 protects an applicant’s right by requiring a hearing within 30 working days; and

**WHEREAS**, the Board of Supervisors held a duly-noticed public hearing, *de-novo*, on October 27, 2020, and reviewed, considered, and discussed application and appeal for the Conditional Use Permits; and reviewed and considered all public testimony and evidence presented at the hearing.

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

**FINDING:**

**Project Description:** The applicant has modified the project description as follows:

- 86,400 square feet of Mixed Light cannabis cultivation.
- Gutter-connect style greenhouses are no longer proposed, and the applicant will instead utilize only hoop houses for light deprivation techniques. The lighting footprint is reduced to a ‘season extension’ model rather than a ‘light supplementation’ model, which is ML-1 rather than ML-2 under state licensing. This will cap out max wattage at 6 watts per square foot of cultivation area. The applicant is proposing to cultivate in-ground in beds rather than rolling benches.
- In order to address both energy demand and habitat fragmentation as a result of human activity in the existing barn area, all processing will occur entirely off-site.
- On site solar would be reduced to 12kw which can be installed on the existing outbuildings thus reducing ground disturbance. A generator for backup power and potential early season use in year one only is proposed as the solar gets installed and also in case there are issues with the solar system during the first year. This reduces the projected diesel use to less than 2,000 gallons for the first two years. Further, this generator

will be removed off-site after two years as required by the Planning Commission.

- The secondary 1.077-million-gallon pond is removed entirely from the project.
- By moving the drying off site there is no need to expand the square footage of the existing barns.
- The applicant is now proposing hard water tank storage on this graded and previously rocked area in order to cultivate at least a part of the square footage before the rainwater catchment pond is constructed and operational.

**EVIDENCE:** Application and correspondence in Project file PLN16608 and PLN11923.

**FINDING:** **CEQA.** The Conditional Use Permits are discretionary projects and therefore subject to the California Environmental Quality Act (“CEQA”). Environmental review for the proposed project included the preparation of an Initial Study/Mitigated Negative Declaration (IS/MND) pursuant to the California Environmental Quality Act (CEQA) Statute (Public Resources Code 21000–21189) and Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000–15387). The IS/MND reflects the independent judgment of the County. Substantial evidence in the record supports the conclusion that there will be no significant adverse effects on the environment. The substituted mitigation measure for BIO-2 is equivalent, or more effective than, the replaced measure in mitigating or avoiding the potential significant effects, and the new measure will not cause any potentially significant effects on the environment (Public Resources Code Section 21080(f), CEQA Guidelines Section 15074.1(b)).

**EVIDENCE:** a) CEQA Guidelines Section 15063 requires the Lead Agency to conduct an Initial Study to determine if the project may have a significant effect on the environment and prepare a Negative Declaration if there is no substantial evidence that the project or any of its aspects may cause a significant effect on the environment. The cultivation of cannabis and development of associated infrastructure will not: detrimentally change the aesthetics of the area, result in significant air quality impacts, result in decreased water quality, result in more traffic, increase wildfire risks, result in more housing units, result in unwanted odors, or

produce noise or light inconsistent with any other cannabis cultivation site.

- b) CEQA Guidelines Section 15073 requires the Lead Agency to provide a public review period to the State Clearinghouse for review by State agencies and the public. The IS/MND was circulated from July 1, 2020 to August 3, 2020, at the State Clearinghouse. Comments from the California Highway Patrol (CHP), Redwood Region Audubon Society, Arthur Wilson, Ronald Wilson, and the California Department of Fish and Wildlife, were received from circulation of the IS/MND and are included in Attachment 6 of this staff report. After circulation of the ISMND, comments were received from Friends of the Mad River, the North Coast Regional Land Trust, and a number of other public commenters. As a result of the comments from the California Department of Fish and Wildlife, mitigation measure BIO-2 was revised and substituted with a more effective mitigation measure for bullfrog prevention (see staff report Attachment 5, pages 53-54). The substitution of the mitigation measure does not affect the conclusions of the document and does not require recirculation pursuant to Section 15073.5 of the CEQA Guidelines, and the substituted measure (BIO-2) will not in itself cause any potentially significant impact on the environment.

## **FINDINGS FOR CONDITIONAL USE PERMITS**

### **FINDING**

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

**EVIDENCE** a) The proposed project includes 86,400 square feet of new mixed-light cannabis cultivation and associated infrastructure and improvements including a proposed 3,221,000 gallon rainwater catchment pond, photovoltaic system, and road and access improvements to the site on a 443-acre parcel which is principally designated “AG,” but which contains 23 acres designated “T.” 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.

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

**EVIDENCE** a) The AE zone is intended to apply to 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.

b) All general agricultural uses are principally permitted in the AE zone.

**4. FINDING** The proposed development is consistent with the requirements of the Commercial Medical Marijuana Land Use Ordinance Provisions of the Zoning Ordinance, and the County’s Streamside Management Area and Wetland Ordinance.

**EVIDENCE** a) The CMMLUO allows for proposed cannabis cultivation to be permitted in areas zoned AE.

b) The CMMLUO allows 86,400 square feet of new mixed-light cultivation and associated infrastructure and improvements subject to approval of a Conditional Use Permit.

c) The County Streamside Management and Wetland Ordinance allows for road crossings and improvements to existing roads within Streamside Management Areas and stream channels where disturbed areas have been mitigated for to ensure no loss of riparian habitat occurs. The mitigation in the ISMND (BIO-4) requires

replacement of all disturbed riparian areas at a 3:1 ratio, which exceeds the requirements of the SMAWO.

**3. FINDING**

The proposed development 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.

**EVIDENCE**

- a) The site is an existing 443 acre parcel currently utilized for cattle ranching.
- b) No processing of cannabis will occur on-site.
- c) The proposed project would include development of a 3,221,000-gallon rain catchment pond that would store water for irrigation use, eliminating the need for groundwater or diversionary water sources for irrigation.
- d) The proposed project is required to adhere to the State Water Resources Control Board Cannabis Cultivation Policy that sets standards for stormwater management, water use and storage, fertilizer and amendment storage.
- e) Greenhouses and other facilities would be constructed to meet California Building Code standards, which include requirements for earthquake and wildlife safety.
- f) Power will be provided by a photovoltaic system and a generator would be used only as a backup emergency power source for only the first two years of operation.
- g) Artificial lighting is required to meet Dark Sky standards for Zones 0 or 1 that allows for little or no light to escape from greenhouses, which will be achieved by cover greenhouses when using artificial lighting.

**4. FINDING**

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

**EVIDENCE**

- a) This project will not affect any housing units and will not reduce the number of housing units identified in the Housing Element.

## FINDINGS FOR APPEAL

### 5. FINDING

The grounds for appeal are not adequate to warrant granting the appeal.

#### EVIDENCE a)

The Appellant claims that the project improperly relies on a mitigated negative declaration when there is a fair argument that the project will result in significant environmental impacts related to contaminated soils and groundwater.

i. Because the project is determined to be a project under CEQA, the “fair argument” legal standard does apply. The Appellant points to the record of comments by the appellant and the California Department of Fish and Wildlife (CDFW) to assert that the project would create impacts associated with water resource, habitat, fire safety, air quality, biological resources, and odor. However, public opposition to a project is not an environmental impact and CDFW stated in the September 3, 2020 public hearing that they did not believe any of the impacts rose to a level of significance requiring an EIR (Michael van Hattem, 2:52:20). As stated in CEQA section 21082.2(b): *The existence of public controversy over the environmental effects of a project shall not require preparation of an environmental impact report if there is no substantial evidence in light of the whole record before the lead agency that the project may have a significant effect on the environment.* Section 15064(f)(5) of the CEQA Guidelines further states that “*Argument, speculation, unsubstantiated opinion or narrative ... shall not constitute substantial evidence. Substantial evidence shall include facts, reasonable assumptions based upon facts, and expert opinion supported by facts.*” The appellant has not provided any such fact based evidence or expert opinion that the project may result in a significant adverse impact that would rise to the level of a fair argument.

ii. The project will involve cultivation of a commercial agricultural product that is heavily regulated for both pesticide and fertilizer contamination and for runoff. Mitigation measures are applied to the project to ensure stormwater is detained on-site and that spill prevention measures are designed by a licensed engineer to be successful (HWQ-1 and HWQ-3).

- b) The appellant argues that relying on diesel generators for 20% of the project's electrical needs for the first two years is a potential significant impact and relies, in part, on the ISMND's statement that up to 135,000 gallons of diesel fuel per year was proposed and considered potentially significant. The appellant also states that potential expansion of PG&E to the site is a potentially significant impact, and that development of ground-based solar panels and associated ground disturbance in proximity to wetland and buffer areas would have potential adverse impacts.
  - i. The statement in the ISMND regarding 135,000 gallons of diesel was the projected usage at 100% of power generated from generators. The ISMND requires mitigation for this unnecessary amount of fuel use (ENE-1). At 20% for the first two years, this would not exceed 27,000 gallons per year for no more than two years. The fuel delivery will be required to comply with all laws regarding secondary containment and spill prevention and the stored fuel will be required to have secondary containment areas to ensure no spills occur. The applicable CEQA threshold is whether the project "would result in a potentially significant impact due to wasteful, inefficient or unnecessary consumption of energy resources." At 20% of total power generation for only two years, this does not appear to rise to a level of significance. Nonetheless, in response to the appellant's concerns and the changes made to the project by the Planning Commission, the applicant is substantially reducing the amount of power needed for lighting and drying activities. In the first two years of operation, the applicant estimates less than 2,000 gallons of diesel needed.
  - ii. PG&E service is unlikely to be extended to the site and is included as an option for renewable energy only if such extension did occur. The project does not propose such extension. Further, were such extension to occur, this would not result in a growth inducing impact because the zoning of the Maple Creek area would prohibit further subdivision and commercial development.

- iii. The solar panels will be located entirely on the rooftops of the existing agricultural outbuildings. No additional ground disturbance will be required.
  
- c) The appellant argues that the Kneeland Fire District is the responsible agency for fire protection and that the applicant is required under General Plan standard IS-S5 to obtain a letter acknowledging the fire services can be provided. As a result, the appellant argues that the MND fails to ensure that increased fire risk to adjacent timberland is not adequately evaluated and the fire risk should be managed by local fire agencies.
  - i. The Kneeland Volunteer Fire District is not the responsible agency for fire protection of the Adesa site. The Adesa site is located outside of the Fire District boundaries. The only fire protection that is available to the Adesa site is from the applicant/property owner for structural fire protection and the California Department of Forestry and Fire Protection (CDF) for wildland fire protection. General Plan Standard IS-S5 can not compel a fire department to provide fire protection out of its boundaries and fire damage to private structures is not a significant impact under CEQA.
  
- d) The appellant states that the County's Program EIR for the CCLUO (Ordinance 2.0) determined that long-term operational impacts of cannabis operations proposed under the CCLUO would be significant and unavoidable and that therefore the Adesa project requires an EIR. The appellant acknowledges here that the project is being reviewed under the CMMLUO, but states that the impacts of the Adesa project are the same if not worse than those considered by the County EIR and therefore an EIR is required for the Adesa project.
  - i. The County's programmatic EIR found that the cumulative impacts on PM10 emissions would contribute to an existing air quality violation and therefore be significant and unavoidable because the entire North Coast Air Quality Basin is currently in non-attainment for PM-10. This was the CEQA threshold standard in effect at the time of the preparation of the County's EIR for the CCLUO. However,

this is the incorrect CEQA threshold for review of the subject project. The CEQA threshold in effect during the preparation and circulation of the MND for the Adesa project is whether the project would “result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under an applicable federal or state ambient air quality standard.” The ISMND for the Adesa project found that there was no “cumulatively considerable net increase” of PM10 as a result of the Adesa project.

- e) The appellant states that the analysis should include traffic from all foreseeable projects including diesel and water deliveries which will increase significantly, along with their unevaluated greenhouse gas emissions. The appellant also states that twelve of the road segments in the road evaluation report are 17-19 feet wide which can make for risky vehicle confrontations and refers to the California Highway Patrol comments of the same.
  - i. The ISMND analyzed the trips as identified and estimated in the Road Evaluation Report for the project, which included fuel truck deliveries. These trips are included in the analysis. Regarding the road width, the County Public Works Department has found that Maple Creek Road is suitable for the intended traffic associated with the Adesa project. For a low volume rural road, the road is functioning very well at the existing road width of anywhere from 17-24 feet in most locations. At an average of ten additional trips per day for the project, the road is of sufficient width and has sufficient turn-outs and site distance to accommodate the small increase in traffic associated with the project.
- f) The appellant argues that the MND fails to analyze the whole of the CEQA “project” because it does not analyze the entirety of the improvements listed in the draft Lake or Streambed Alteration Agreement issued by CDFW. The appellant argues that the LSAA and the Adesa project are “so intertwined as to be part of the whole of the same action.” The appellant further argues that the LSAA stream crossings for the road to the Adesa project are clearly part

of the project because they serve the road and should therefore be included in the ISMND.

- i. The ISMND includes all stream crossings and LSAA components that are related to the Adesa project. All of the stream crossings and culvert replacements for the improvement of the access road to the Adesa project site and new access road for the primary rainwater pond are described, analyzed and mitigated for in the ISMND. It is therefore inaccurate for the applicant to argue that the road improvements associated with the Adesa project are not adequately included in the MND.

The draft LSAA issued by CDFW includes components related to culvert replacements and water diversions on the entirety of the 443 acre property that are completely unrelated to the Adesa project. For example, the draft LSAA includes a water diversion improvement for an existing single-family residence that is located over 0.50 of a mile from the Adesa project site. The draft LSAA similarly includes existing cattle stock-ponds which are not part of the Adesa project and will not be utilized or altered in any way as a result of the Adesa project. CDFW clarified that they believe only one of these components that was not analyzed in the ISMND is related to the Adesa project, and that this is the removal of an existing stock pond that is adjacent to the footprint of the proposed cultivation site. CDFW clarified at the September 3, 2020 meeting that removal of this pond is not a significant issue because it would be environmentally beneficial (Michael van Hattem, 2:43:30). The components of the LSAA that address the existing cattle ranch and single family residence have no relationship to the Adesa project and have completely independent utility. Further, as CDFW stated in the September 3, 2020 Planning Commission hearing, these components would result in improved environmental conditions on the 443 acre ranch site.

- g) The appellant argues that the MND fails to assess future foreseeable effects of permitting more water supply capacity than presently needed because a secondary pond is proposed to be

constructed if necessary. The appellant argues that this indicates that additional cannabis cultivation is intended to be proposed at the Adesa site.

- i. No additional cannabis may be permitted on this site under the CMMLUO. Any subsequent cannabis applications would be required to be reviewed under the CCLUO, which may or may not be allowable on the site given the constraints of the CCLUO. However, given that no project has been submitted and the county has received no such indication of future cultivation being proposed on the Adesa site, there are no reasonably foreseeable projects that would occur. Nonetheless, the applicant has removed the secondary pond completely from the project and this is no longer a relevant issue.
- h) The appellant argues that the applicant submitted a new application on September 23, 2019 for a new stream crossing by the addition of a 24-inch diameter culvert for a proposed new road, and that because this is part of the whole of the Adesa project and the project application, the entire Adesa project should be deemed to have been submitted September 23, 2019.
  - i. The project application was submitted in December 15, 2016. At that time, the road access to the rainwater catchment pond was proposed as part of the project. The submittal of grading plans and an SMA permit for this work does not amend the project submittal date. Section 314-55.4.3.1 of the CCLUO states that “Applications for Commercial Cannabis Activity land use permits filed on or before December 31, 2016 shall be governed by the regulations in effect at the time of their submittal, except as follows and is otherwise prescribed herein. Zoning Clearance Certificates filed on or before December 31, 2016 shall be controlled by the provisions of section 55.4.6.7 of this Section.”
- i) The appellant states that at least one member of the Planning Commission may have financial ties to the cannabis industry that could prejudice the Commissioner’s views of the project and that similar financial interests may exist among the Board of

Supervisors. The appellant asks that there be full disclosure and recusal where appropriate in the consideration of this appeal.

- i. This does not appear to be an argument for denial of the Adesa project but rather a request for full disclosure. An accusation of conflict of interest is not a CEQA issue.
- j) The appellant argues that the federal legal status of cannabis may prevent compliance with federal permitting requirements that would address environmental impacts, such as filling of waters of the US or take of endangered species. More specifically for the project the appellant argues that potential impacts to Northern Spotted Owl could prohibit the North Coast Regional Water Quality Control Board from consulting with the USFWS for consultation before issuance of any Clean Water Act certification.
  - i. No filling of waters of the US or take of federal endangered species is proposed as part of this project. The federal status of cannabis has not prevented the NCRWQCB from issuing 401 certification for cannabis related project.

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

- 1 Adopts the Findings set forth in this Resolution;
- 2 Adopts the Initial Study and Mitigated Negative Declaration, State Clearinghouse No. 2020060675;
- 3 Denies the Appeal submitted by Friends of the Mad River;
- 4 Approves the Conditional Use Permits for a total of 86,400 square feet of new mixed-light cannabis subject to the revised project description incorporated into this staff report and the conditions of approval contained in Attachment 1 of this Resolution; and
- 5 Adopts the Revised Mitigation, Monitoring, and Reporting Program with substituted Mitigation Measure BIO-2 as discussed in the Findings above.

The foregoing Resolution is hereby passed and adopted by the Board of Supervisors on October 27, 2020, by the following vote:

Adopted on motion by Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_

and the following vote:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

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: \_\_\_\_\_, 2020

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

## **ATTACHMENT 1**

### **CONDITIONS OF APPROVAL**

**APPROVAL OF THE CONDITIONAL USE PERMITS ARE CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS, WHICH MUST BE SATISFIED BEFORE RELEASE OF THE BUILDING PERMIT AND INITIATION OF OPERATIONS, OR PER THE TIMELINE NOTED IN THE CONDITION.**

1. The applicant shall submit a check to the Planning Division payable to the Humboldt County Clerk/Recorder in the amount of \$2,456.75. Pursuant to Section 711.4 of the Fish and Game Code, the amount includes the CDFW fee plus the \$50 document handling fee to the Clerk. This fee is effective through December 31, 2020, at such time the fee will be adjusted pursuant to Section 713 of the Fish and Game Code. Alternatively, the applicant may contact CDFW by phone at (916) 651-0603 or through the CDFW website at [www.wildlife.ca.gov](http://www.wildlife.ca.gov) for a determination stating the project will have no effect on fish and wildlife. If CDFW concurs, a form will be provided exempting the project from the \$2,456.75 fee payment requirement. In this instance, only a copy of the CDFW form and the \$50.00 handling fee is required.
2. The applicant shall submit a completed Notice of Merger and Certificate of Subdivision Compliance document along with legal review fees, notary fees and recording fees, as applicable.
3. The applicant shall provide documentation from the County of Humboldt Tax Collector that all property taxes for the parcels involved in the Merger have been paid in full if payable, or secured if not yet payable, to the satisfaction of the County Tax Collector's Office. Please contact the Tax Collector's Office approximately three to four weeks prior to filing the Notice of Merger to satisfy this condition.

Note: The purpose of this condition is to avoid possible title consequences in the event of a tax default and sale affecting the owner's real property interest. If property has delinquent taxes, the property cannot be combined for tax purposes. This means that the owner will receive two or more tax bills, and penalties and interest will continue to accrue against the land which has delinquent taxes. If five or more years have elapsed since the taxes on the subject property were declared in default, such property will be sold by the County Tax Collector for non-payment of delinquent taxes unless the amount required to redeem the property is paid before sale. Property combined by merger but "divided" by tax sale will require separate demonstration of

subdivision compliance of all resultant parcels prior to the County's issuance of a building permit or other grant of authority to develop the subject properties.

4. The applicant shall pay a map revision fee of \$300 as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$75.00 per parcel) as required by the County Assessor to the County Planning Division, 3015 "H" Street, Eureka. The check shall be made payable to the "Humboldt County Planning Division". The fee is required to cover the Assessor's cost in updating the parcel boundaries.
5. The applicant shall secure permits for all proposed structures related to the cannabis cultivation and other commercial cannabis activity.
6. Water meters shall be installed at the groundwater wells and at all storage tanks. The applicant shall maintain monthly records of water usage and provide these to the Department on a yearly basis.
7. Prior to initiating commercial cannabis cultivation or associated activities 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.
8. The applicant shall be compliant with the County of Humboldt's Certified Unified Program Agency (CUPA) requirements regarding any 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.
9. The applicant shall provide a copy of the Notice of Applicability from the SWRCB.
10. Applicant shall consult with CDFW prior to construction of rainwater catchment ponds. Measures specified by CDFW to avoid risk of wildlife entrapment, such as reduced slope angles, escapement structures and fencing shall be included in construction.
11. The applicant shall pave the existing driveway apron where the driveway for a minimum width of 20 feet and a length of 50 feet where it intersects Maple Creek Road. The applicant shall apply for and obtain an encroachment permit prior to commencement of any work in the County maintained right of way. Confirmation from the Department of Public Works that the work has been completed shall satisfy this requirement.
12. Rock acquired for construction and improvement of the 1.1 mile access drive shall be from a SMARA approved quarry or source.

13. The driveway that intersects Maple Creek 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 prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.
14. All fences and gates shall be located out of the County right of way. All gates shall be setback 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 the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.
15. 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.
16. The applicant shall record an acknowledgment of no available emergency response and fire suppression services.
17. Generators (which may only be used for up to 20% of power generation during all operations) shall be used only for the first two years of operation. After two years of operation all power needed for the project must be generated by renewable resources and renewable energy.

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 Site Plan, the Plan of Operations, and these conditions of approval. Changes shall require modification of this permit except where consistent with Humboldt County Code Section 312-11.1, Minor Deviations to Approved Plot Plan.
2. Cannabis cultivation and other commercial cannabis activity shall be conducted in compliance with all laws and regulations as set forth in the CMMLUO and MAUCRSA, as applicable to the permit type.
3. Provide an invoice, or equivalent documentation to DEH annually to confirm the continual use of portable toilets.

4. 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.
5. 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 County Code Section 55.4.11(d).
6. Maintain enrollment in Tier 1, 2 or 3, certification with the 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.
7. 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).
8. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
9. Pay all applicable application, review for conformance with conditions and annual inspection fees.
10. Power is to be supplied by PG&E. If the project is modified to use a generator for cannabis operations the noise from the generator or fans shall not be audible by humans from neighboring residences. The decibel level for generators measured at the property line shall be no more than 60 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 50 decibels as measured at 100 feet from the generator or at the edge of the nearest Marbled Murrelet or Spotted Owl habitat, whichever is closer.
11. The use of monofilament netting for all uses, including but not limited for erosion control, shall be prohibited. Geotextiles, fiber rolls, and other erosion control measure materials shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves to minimize the risk of ensnaring and strangling wildlife.
12. Leave wildlife unharmed. If any wildlife is encountered during the Authorized Activity, Permittee shall not disturb the wildlife and shall allow wildlife to leave the work site unharmed.

13. All refuse shall be contained in wildlife proof storage containers, at all times, and disposed of at an authorized waste management facility.
14. Any project related noise shall be contained to the extent feasible (e.g. containment of fans, dehumidifiers etc.) and shall be no more than 50 decibels measured from 100ft or to the nearest tree line, whichever is closer.
15. The burning of excess plant material associated with the cultivation and processing of commercial cannabis is prohibited.
16. 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.
17. Any outdoor construction activity and use of heavy equipment outdoors shall take place between 7:00 a.m. and 6:00 p.m., Monday through Friday, and between 9:00 a.m. and 6:00 p.m. on Saturday and Sunday.
18. The Master Log-Books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
23. Pay all applicable taxes as required by the Humboldt County Commercial Marijuana Cultivation Tax Ordinance (Section 719-1 et seq.).
24. Participate in and bear costs for permittee's participation in the State sanctioned tracking program (METRC).

#### Performance Standards for Cultivation and Processing Operations

25. 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."
26. 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).
27. 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.
28. All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
- I. 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.
  - II. Cultivation operations and processing 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.
29. 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.

30. Term of Commercial Cannabis Activity Permit. Any Commercial Cannabis Cultivation 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 Permits, 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 CCLUO.

32. 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 for commercial cultivation, processing, manufacturing, and distribution of cannabis for adult use or

medicinal use within the inland area of the County of Humboldt, shall at all times be conducted consistent with the provisions of the approved County permit; 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 State of California Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA") (SB 94), 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 State of California MAUCRSA.

33. 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 CCLUO 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 Commercial Cannabis.

34. 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 55.4.6.5.7of the CCLUO, if upon inspection for the initial application, violations and areas of non-compliance subject to a compliance agreement shall be related to land conversion, on-site grading, electricity usage, water usage, agricultural discharges, and similar matters and limited to those improvements, facilities, buildings, and sites that are used for the Commercial Cannabis Activity and shall not extend to personal residences or other structures that are not used for Commercial Cannabis Activities. Applicants shall provide plans for curing such violations to the Planning & Building Department within one

(1) year of issuance of the provisional clearance or permit. All violations and areas of non-compliance shall be cured or abated at the earliest feasible date, but in no event no more than two (2) years after the date of issuance of a provisional clearance or permit, unless otherwise stipulated under the terms of the individual agreement. The terms of the compliance agreement may be appealed to the Planning Commission, who shall then act as Hearing Officer.

2. If cultural resources are encountered during construction activities, the contractor on site shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist as well as the appropriate Tribal Historic Preservation Officer(s) 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.

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 Section 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 Section 5097.98. Violators shall be prosecuted in accordance with Public Resources Code Section 5097.99.

3. 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.
4. The Applicant is responsible for costs for post-approval review for determining project conformance with conditions. A deposit is collected to cover this staff review. Permit conformance with conditions must be demonstrated prior to release of building permit or initiation of use and at time of annual inspection. A conformance review deposit as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$750) shall be paid within 12 months of the effective date of the permit, whichever occurs first. Payment shall be made to the Humboldt County Planning Division, 3015 "H" Street, Eureka.

