

**RESOLUTION OF THE PLANNING COMMISSION  
OF THE COUNTY OF HUMBOLDT**

**Resolution Number 21-58**

**Record Number PLN-12255-CUP**

**Assessor's Parcel Numbers: 506-231-021, 505-151-011 and 505-151-012**

**Resolution by the Planning Commission of the County of Humboldt certifying compliance with the California Environmental Quality Act and conditionally approves the Arcata Land Company, LLC, Conditional Use Permit.**

**WHEREAS, Arcata Land Company, LLC,** submitted an application and evidence in support of approving a Conditional Use Permit for Record No, PLN-12255-CUP. Permit requested is a Conditional Use Permit for 2.3 acres of outdoor light-deprivation commercial cannabis cultivation, 5.7 acres of mixed-light commercial cannabis cultivation, 30,000 sf of ancillary nursery space, and appurtenant facilities to support the operation.

**WHEREAS,** a Mitigated Negative Declaration was prepared for the proposed Conditional Use Permit and circulated for public review pursuant to Section 15074 of the CEQA Guidelines; and

**Now, THEREFORE BE IT RESOLVED,** that the Planning Commission makes all the following findings:

**FINDING:**

**Revised Project Description:** A Conditional Use Permit for eight acres of new commercial cannabis cultivation. The Project includes a combination of outdoor light-deprivation cultivation (2.3 acres) and mixed-light cultivation (5.7 acres) in new enclosed gutter connected greenhouses. In addition, there will be 30,000 square feet of existing hoop houses dedicated to nursery activities. The Project will also include ancillary support features, such as an administrative building, propagation and office building, utility building, new onsite wastewater treatment system, unpaved parking areas, security fencing, and storm water management features (e.g., detention basins). The Project is anticipated to require up to 80 full-time equivalent employees at full buildout. An existing agricultural well on APN 505-151-012 will provide water for the Project. Yearly water demand for irrigation is estimated at 36 acre-feet (11,736,000 gallons). Project employees will have access to permanent restrooms in the new administration and office building that will be served by a new private onsite wastewater treatment system for sewage disposal, in addition to temporary restrooms for Site employees during peak harvest periods.

**EVIDENCE:**

Project File: PLN-12255-CUP

**2. FINDING:**

**CEQA. :** As required by the California Environmental Quality Act, the project was found subject to CEQA and a Mitigated Negative Declaration was prepared by the Planning and Building Department, Planning Division (Attachment 2), which evaluated the project for any adverse effects on the environment.

**EVIDENCE:**

- a) The CEQA document includes an analysis of the subject Conditional Use Permit. The Initial Study and Draft Mitigated Negative Declaration (IS/MND) was circulated from January 28, 2021 to February 26, 2021. The proposed project has been scaled back from the original that was

reviewed and analyzed and in all instances the scale and impact of the project is less than that disclosed and analyzed in the Initial Study.

- b) The IS/MND included five mitigation measures which have been incorporated into a Mitigation Monitoring and Reporting Plan which is being adopted as part of the project.

### 3. FINDING

**ENVIRONMENTAL IMPACTS FOUND NOT TO BE SIGNIFICANT- NO MITIGATION REQUIRED.** The following impacts have been found to be less than significant and mitigation is not required to reduce project related impacts: Aesthetics, Agriculture and Forestry Resources, Air Quality, Energy, Greenhouse Gas Emissions, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Mineral Resources, Noise, Population and Housing, Recreation, Transportation, Utilities and Service Systems, and Wildfire.

#### EVIDENCE

- a) There is no evidence of an impact to any of the above reference potential impact areas based on the project as proposed at this proposed location.
- b) Initial Study/Mitigated Negative Declaration circulated for public review January 28, 2021 to February 26, 2021.

### 4. FINDING

**ENVIRONMENTAL IMPACTS MITIGATED TO LESS THAN SIGNIFICANT** – The Initial Study identified potentially significant impacts to Biological Resources, Cultural Resources, Geology and Soils, and Tribal Cultural Resources, which could result from the project as originally submitted. Mitigation Measures have been required to ensure potential impacts are limited to a less than significant level.

#### EVIDENCE

- a) **Biological Resources:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for biological resources:
  - i. Project-related vegetation management should occur outside the bird nesting season, (February 28 through September 1). If project-related brush clearing must occur during the breeding season, a preconstruction nesting-bird survey shall be conducted by a qualified biologist no more than two weeks prior to Project activities. If active nests are found, a no-disturbance buffer zone of a minimum of 250 feet shall be established. Within this buffer zone, no construction shall take place until September 1 or until the biologist determines that the nest is no longer active.
  - ii. Use standard BMPs during ground disturbance activities and remove construction debris and waste from and up to 100 feet around drainage ditches.
- b) **Cultural Resources:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for cultural resources:
  - i. If suspected cultural resources, such as lithic materials or ground stone, historic debris, building foundations, or bone are discovered during Project activities, work shall be stopped within 100 feet of

the discovery. Contact will be made to the County, a professional archaeologist and representatives from the Blue Lake Rancheria, Bear River Band of Rohnerville Rancheria, and Wiyot Tribe. The professional historic resource consultant, Tribes and County officials will coordinate provide an assessment of the find and determine the significance and recommend next steps.

If human remains are discovered during Project activities, work will stop at the discovery location, within 100 feet, and any nearby area reasonably suspected to overlie adjacent to human remains (Public Resources Code, Section 7050.5). The Humboldt County coroner will be contacted to determine if the cause of death must be investigated. If the coroner determines that the remains are of Native American origin, it is necessary to comply with state laws relating to the disposition of Native American burials, which fall within the jurisdiction of the NAHC (Public Resources Code, Section 5097). The coroner will contact the NAHC. The descendants or most likely descendants of the deceased will be contacted, and work will not resume until they have made a recommendation to the landowner or the person responsible for the excavation work for means of treatment and disposition, with appropriate dignity, of the human remains and any associated grave goods, as provided in Public Resources Code, Section 5097.98.

- c) **Geology and Soils:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for geology and soils:
  - i. In the event that paleontological resources are discovered, work shall be stopped within 100 feet of the discovery and a qualified paleontologist shall be notified. The paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find under the criteria set forth in State CEQA Guidelines Section 15064.5. If fossilized materials are discovered during construction, excavations within 100 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist. The paleontologist shall notify the appropriate agency to determine procedures that would be followed before construction is allowed to resume at the location of the find.
  
- d) **Tribal Cultural Resources:** Potentially significant impacts will be mitigated to a less than significant level with the implementation of the following mitigation measures for tribal cultural resources:
  - i. If suspected tribal cultural resources, such as lithic materials or ground stone, historic debris, building foundations, or bone are discovered during Project activities, work shall be stopped within 100 feet of the discovery. Contact will be made to the County, a professional archaeologist and representatives from the Blue Lake Rancheria, Bear River Band of Rohnerville Rancheria, and Wiyot Tribe. The professional historic resource consultant, Tribes and County officials will coordinate provide an assessment of the find and determine the significance and recommend next steps.

If human remains are discovered during Project activities, work will stop at the discovery location, within 100 feet, and any nearby area reasonably suspected to overlie adjacent to human remains (Public Resources Code, Section 7050.5). The Humboldt County coroner will be contacted to determine if the cause of death must be investigated. If the coroner determines that the remains are of Native American origin, it is necessary to comply with state laws relating to the disposition of Native American burials, which fall within the jurisdiction of the NAHC (Public Resources Code, Section 5097). The coroner will contact the NAHC. The descendants or most likely descendants of the deceased will be contacted, and work will not resume until they have made a recommendation to the landowner or the person responsible for the excavation work for means of treatment and disposition, with appropriate dignity, of the human remains and any associated grave goods, as provided in Public Resources Code, Section 5097.98.

## 5. FINDING

**CEQA Public Comments:** There have been a significant number of comments from the public on the project and the Mitigated Negative Declaration and one comment from the California Department of Food and Agriculture, and one comment from the California Department of Transportation on the Mitigated Declaration. These comments have been considered and none of these comments change the conclusions of the Mitigated Negative Declaration.

### EVIDENCE

- a) Comments regarding impacts to traffic. W-Trans Traffic Engineering Consultants prepared a Traffic Impact Study for the Project, analyzing potential impacts relative to circulation, access for pedestrians, bicyclists, and to transit. Based on the findings of the study, the Project would only have a potential impact on Level of Service at two intersections. As a result, the Traffic Impact Study recommends that the applicant pay proportional share fees to the City of Arcata to alleviate the project's contribution to the needed improvements at Foster Avenue/Alliance Road and Sunset Avenue/US 101 North Ramps, consisting of \$13,512 and \$8,714, respectively.
- b) Comments regarding impacts to air quality (odor). Odors from the cultivation process will be controlled using fans that direct airflow through the greenhouses to a carbon filtration unit. In the event that carbon filtration is inadequate, odor neutralizers such as Ecosorb, which is a water-based product that contains a proprietary blend of natural plant oils and bio-based surfactants that effectively adsorb to odor molecules, neutralizing their smell, may be utilized. In addition, the approved building plans will address odor management by incorporating a ventilation/air filtration system that limits potential adverse odor emission impacts to employees and/or properties located in the vicinity. The system will be designed, signed, and stamped by a mechanical engineer for review and approval by the Building Official. There will be a description of the odor control system and procedures for ongoing maintenance of the system. The plan will designate a staff member to receive, document, and follow-up on odor complaints. The plan will include procedures to document and respond to any odor complaints that include: a contact name and phone number to report odor complaints, the source or cause of any odor complaints, and actions taken to mitigate the odors. Complaint

records will be maintained for a minimum of five years from the date the complaint is received and be provided to the County or NCUAQMD upon request.

With the reduced footprint project proposal, the closest residence to the project would be at 780 feet. All other residences would be at least 1,250 feet away.

- c) Comments regarding visual impacts. The project site is not located near any designated scenic highway or scenic vista. The Project is proposed on parcels zoned Heavy Industrial. In fact, the site was previously used as a log deck for a lumber mill. The mill buildings still remain on site. The site continues to be used for industrial purposes within the existing industrial buildings. The proposed greenhouses and accessory buildings will not be high or large as those typical at an industrial complex.
- d) Comments regarding light pollution. The CMMLUO requires that mixed light cultivation comply with International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1 and be designed to regulate light spillage onto neighboring properties resulting from backlight, uplight, or glare (BUG). The project is required to follow International Dark Sky Association Standards that exceed the requirements of Scenic Resources Standard SR-S4, Light and Glare, that lighting be fully shielded, and designed and installed to minimize off-site lighting and direct light within the property boundaries.
- e) Comments regarding noise pollution. Project activities are not expected to generate significant noise levels that will exceed the Humboldt County General Plan Noise Element standards. Project activities within the administration buildings and greenhouses will be limited from a noise-generating perspective (e.g., conventional air movement fans, HVAC equipment) and will meet applicable County building and zoning code requirements for noise levels. Outdoor noise-generating activities will include vehicle use and small agricultural support equipment (e.g., ATVs, tractors, and forklifts). From a noise standpoint, Project activities will be consistent with agricultural and vehicle equipment used at the Site under baseline conditions.

With the reduced footprint project proposal, the closest residence to the project would be at 780 feet. All other residences would be at least 1,250 feet away.

- f) Comments regarding impacts to groundwater. The change in use from flower and crop production to cannabis will not result in additional water use, and information available through the California department of Water Resources indicates that existing groundwater extraction in the Mad River Lowland Subbasin is well below the available groundwater storage of 25,000 acre-feet (California Groundwater Bulletin 118), which recharges every year through rainwater and percolation from the Mad River and tributaries thereto.

The use of 11,736,000 gallons per year for irrigation is well below the historic use (estimated at over 50 acre-feet) for previous agricultural activities.

- g) Comments regarding impacts on birds. The Project areas do not contain designated critical habitat for any listed species. However, mitigation is in place so that if project-related brush clearing must occur during the breeding season, a preconstruction nesting-bird

survey shall be conducted by a qualified biologist no more than two weeks prior to Project activities. If active nests are found, a no-disturbance buffer zone of a minimum of 250 feet shall be established. Within this buffer zone, no construction shall take place until September 1 or until the biologist determines that the nest is no longer active. Comments have been made regarding birds such as geese that have been seen using the site, however geese are not a special status species. Geese are migratory and CEQA requires consideration of whether the project would *substantially* interfere with the movement of any migratory wildlife species. The conversion of open field flower and crop production to greenhouses will not substantially interfere with the movement of migratory species such as geese. The area proposed for greenhouses has historically been farmed for crops and flower production and is therefore not an established resource for migratory wildlife.

With the reduced footprint project proposal, there will be approximately 64 acres of undeveloped contiguous open space within the land holding, and the vast majority of the Arcata bottoms area is undeveloped and available for migratory species.

- h) Comments regarding impacts from pesticide and fertilizer use. Storage and use of fertilizers and pesticides will be conducted in accordance with the Best Practicable Treatment or Control (BPTC) measures of State Water Resources Control Board (SWRCB) Order WQ 2019-0001-DWQ, which include requirements to apply fertilizers and soil amendments at only the proper agronomic rates, and to store materials in a manner that is protected from rainfall and erosion. The cultivation will occur in enclosed greenhouses that will ensure containment of fertilizers and pesticides within the cultivation area only. The enclosed greenhouses will include carbon filtration intended to control odor, and which will also ensure that any aerosolized pesticides are trapped in carbon filters before air is circulated to outside of the greenhouses. No storage of fertilizers, pesticides, or hazardous materials will occur on the proposed cultivation site. All storage will occur on an adjacent parcel under common ownership that is currently setup and permitted to store and manage fertilizers, pesticides, and hazardous materials used in existing agricultural operations. The materials will be stored in fully enclosed, watertight containers, and in a manner so that they cannot enter or be transported into surface waters or groundwater. These storage facilities are already in place. Some comments have asserted that the site has utilized round-up and other inorganic pesticides that would result in spread of these chemicals to adjacent residences, however the area proposed for cannabis cultivation has historically been cultivated with certified organic quinoa among other crops and flowers.
- i) Comments regarding energy use. The project will not be drawing more than 1.9 MW at any given time. PG&E has been made aware of this and have not expressed any further concerns.
- k) The project is conditioned to remain in compliance with the requirements of the State Water Resources Control Board (SWRCB). SWRCB Order WQ 2019-0001-DWQ prescribes Best Practicable Treatment or Control measures to control runoff and erosion, including monitoring of erosion control measures during and after design storm

events, and repair or replacement, as needed, of ineffective erosion control measures immediately.

- l) Comments regarding depletion of the groundwater table and potential salt-water intrusion from over-pumping of the existing groundwater well. The amount of irrigation needed for the proposed cannabis cultivation is approximately 36 acre-feet per year which is less than the amount that has been used historically for the cultivation of flowers and crops on the property. The proposed project will result in a decrease in amount of annual irrigation and would therefore lessen the impact on the groundwater table over the environmental baseline.
- m) Comments regarding the use of the groundwater well for drinking water for employees. The well will be required to be permitted through the state as a public water system which will ensure the water is safe for consumption.

### **FINDINGS FOR CONDITIONAL USE PERMIT**

#### **6. FINDING**

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

#### **EVIDENCE**

- a) General Agriculture and Intensive Agriculture are allowable uses in the Agricultural Exclusive land use designation. The proposed cannabis project, 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. Comments have been made suggesting that the project will result in a loss of agricultural land however the proposed cannabis cultivation is an agricultural use. Conversion of one agricultural use to another will not result in a loss of agricultural land.
- b) The General Plan Circulation Element requires *Decisions to change or expand the land use of a particular area shall include an analysis of the impacts to existing and proposed transportation facilities and services so as to minimize or avoid significant operational, environmental, economic, and health-related consequences.* The project does not change or expand the allowable land uses in this area, as the project site is an existing agricultural operation. Nonetheless, the proposed project has conducted a full transportation analysis which demonstrates that there will be no significant operational, environmental, economic or health-related consequences. The Project site is accessed from Foster Avenue, a paved County maintained road. W-Trans Traffic Engineering Consultants prepared a Traffic Impact Study for the Project, analyzing potential impacts relative to circulation, access for pedestrians, bicyclists, and to transit. Based on the findings of the study, the Project would only have a potential impact on Level of Service at two intersections. As a result, the Traffic Impact Study recommends that the applicant pay proportional share fees to the City of Arcata to alleviate the project's contribution to the needed improvements at

Foster Avenue/Alliance Road and Sunset Avenue/US 101 North Ramps, consisting of \$13,512 and \$8,714, respectively. This is a condition of project approval for the Conditional Use Permit.

Public Works Department recommended approval with the condition that the driveway be paved for a minimum width of 20 feet and a length of 50 feet where it intersects Foster Avenue. Public Works also requested that the intersect of the driveway and Foster Avenue be maintained in accordance with County Code Section 351-1 (Sight Visibility Ordinance). These are included as a conditions of project approval.

- c) The proposed project is consistent with the Conservation and Open Space Element - Biological Resources as evidenced by compliance with the following polices and standards:

Streamside Management Areas (BR-P5, P6) and Wetland Identification (BR-P7): A Project-specific wetland delineation conducted by SHN did not identify any wetlands within the Project area, but did identify a man-made roadside drainage ditch approximately 5,100 square feet in size containing wetland indicators located along the existing access road at the southwest border of the Project site. The drainage ditch is classified as a Class IV watercourse (all other man-made irrigation canals) under the State Water Resources Control Board (SWRCB) Order WQ 2019-0001-DWQ, with no prescribed setback requirements.

The drainage ditch is located outside of the Project boundary and will be conserved and not disrupted by Project activities (with exception of routine maintenance of the ditch, consistent with current practice). In addition, the Project will be subject to the water quality requirements of WQ 2019-0001-DWQ and the County's CMMLUO performance standards. This includes requiring that fertilizers and pesticides/herbicides be applied consistent with product labeling and managed to ensure that they will not enter or be released into surface or groundwater. As a result, the Project will not physically interfere with the potentially jurisdictional drainage ditch located near the Project boundary. Nevertheless, SHN recommended the following mitigation measure to ensure that no impact to potentially jurisdictional waters occurs.

*Use standard BMPs during ground disturbance activities and remove construction debris and waste from and up to 100 feet around drainage ditches.*

Biological Resource Maps (BRP11): SHN conducted a Biological Resources Assessment to assess the potential presence of any candidate, sensitive, or special status species within the Project area. The site was visited in December 2018 to assess available habitat for special-status species that were reported in the vicinity, and seasonally appropriate surveys occurred on May 2 and July 19, 2019.

The Site is heavily disturbed and actively managed for agricultural production. During the field surveys conducted as part of the SHN Biological Resources Assessment, no special status plant or animal species were documented within the Project area. However, due to the potential presence of nesting birds at the Site, the following mitigation is recommended in the Mitigated Negative Declaration for



the Project.

*Project-related vegetation management should occur outside the bird nesting season, (February 28 through September 1). If project-related brush clearing must occur during the breeding season, a preconstruction nesting-bird survey shall be conducted by a qualified biologist no more than two weeks prior to Project activities. If active nests are found, a no-disturbance buffer zone shall be established of a minimum of 250 feet. Within this buffer zone, no construction shall take place until September 1 or until the biologist determines that the nest is no longer active.*

SHN found that there are no significant wildlife movement corridors within the Project area, and Project activities will not impact or restrict existing drainage ditches and swales, maintaining general movement corridors in the Project vicinity. As a result, the Project will not interfere substantially with movement of native resident or migratory wildlife species or with established native resident or migratory wild-life corridors. The site proposed for greenhouses has historically been utilized for flower and crop production and was therefore not available as a substantial resource for migratory wildlife species.

The Project does not conflict with local policies or ordinances protecting biological resources. The Project will not impact riparian or wetlands habitats or involve the removal of trees. As a result, the Project will not conflict with any local policies or ordinances protecting biological resources.

Agency Review (BR-P12): Consistent with this policy, the county has consulted with the California Department of Fish and Wildlife. The initial consultation was in October of 2017 and no comments were received. CDFW was consulted in the preparation of the Initial Study/Mitigated Negative Declaration however they chose not to submit comments.

- d) The Goals and policies of the Conservation and Open Space Cultural Resources have been complied with based on the referral of the project to the Northwest Information Center (NWIC), the Bear River Band of Rohnerville Rancheria, the Blue Lake Rancheria, and the Wiyot Tribe. A Cultural Resources Investigation was prepared for the Project by Archaeological Research and Supply Company in May 2018 (updated June 2020). No prehistoric resources were identified within the Project area, but one 1920-50s area historic trash scatter that was identified. The cultural resources study concludes that the Project will not impact significant historic or prehistoric archaeological resources so long as earth disturbances do not extend more than 8 feet below the existing ground surface and a heightened inadvertent discovery protocol is implemented. The Project does not propose to excavate greater than 8 feet in depth. To address the unlikely event that buried cultural resource deposits are discovered during Project activities, heightened inadvertent discovery protocol is an ongoing condition of project approval.
- e) The project is consistent with the Conservation and Open Space Scenic Resources policies as the only applicable policy is related to restricting light and glare. The project involves mixed-light cultivation.

The CMMLUO requires that mixed light cultivation comply with International Dark Sky Association standards for Lighting Zone 0 and Lighting Zone 1 and be designed to regulate light spillage onto neighboring properties resulting from backlight, uplight, or glare (BUG). The project is required to follow International Dark Sky Association Standards that exceed the requirements of Scenic Resources Standard SR-S4, Light and Glare, that lighting be fully shielded, and designed and installed to minimize off-site lighting and direct light within the property boundaries. Comments have been raised by the public regarding lighting impacts, however compliance with the ordinance will ensure that there are no adverse impacts to adjacent populations from nighttime lighting.

The project site is not located near any designated scenic highway or scenic vista. The Project is proposed on parcels zoned Heavy Industrial. In fact, the site was previously used as a log deck for a lumber mill. The mill buildings still remain on site. The site continues to be used for industrial purposes within the existing industrial buildings. The proposed greenhouses and accessory buildings will not be high or large as those typical at an industrial complex.

f) The project is consistent with the Water Resources Element through compliance with the following goals and policies:

- Sustainable Management (WR-P1).  
Protection for Surface and Groundwater Uses (WR-P2).  
The project does not utilize diversion from a surface water source, as water will come from a well that is not a diversion of surface water. The well is located within the Mad River Lowland Subbasin. The subbasin is not subject to the Sustainable Groundwater Management Act (SGMA) and the basin prioritization is very low (<https://groundwaterexchange.org/basin/mad-river-valley-lowland>). According to California Department of Water Resources California's Groundwater Bulletin 118 (2003), the subbasin has no known groundwater management plans, groundwater ordinances, or basin adjudications. Storage for the subbasin is estimated at 25,000 acre-feet. Estimates of groundwater extraction are based on a survey conducted by the California Department of Water Resources in 1996. The survey included land use and sources of water. Estimates of groundwater extraction for agricultural and municipal/industrial uses are 6,300 and 35 acre-feet respectively. Deep percolation from applied water is estimated to be 1,400 acre-feet. Groundwater recharge occurs from percolation from the Mad River and small tributary creeks in the foothills to the east of Arcata and deep percolation to floodplain deposits from precipitation and applied water. The Hookton Formation is likely recharged by rainfall in the upland recharge areas east of Arcata (DWR 1973). Some water also moves laterally into the alluvium from adjacent formations and some moves upward from leakage due to differences in pressure between the alluvium and underlying formations.
- Project Design (WR-P12). The project will not detract from the function of rivers, streams, ponds, wetlands or their setback areas.
- Storm Drainage (WR-G10). A professional engineering firm (Wallace Group) developed a project-specific storm water management design to effectively manage surface runoff.

- g) The project is in compliance with the Noise Element as there are no sensitive receptors which would be adversely affected by the project. Project parcels are a component of a large private land holding (350+ acres) of the Project applicant. The predominant land uses in the vicinity of the Project include additional land holdings of the Project applicant, as well as mixed commercial, agricultural and scattered rural residential uses. The surrounding vicinity is sparsely populated with one residence located within 1,000 feet of the Project Site.

Project activities are not expected to generate significant noise levels that will exceed the Humboldt County General Plan Noise Element standards. Project activities within the administration buildings and greenhouses will be limited from a noise-generating perspective (e.g., conventional air movement fans, HVAC equipment) and will meet applicable County building and zoning code requirements for noise levels. Outdoor noise-generating activities will include vehicle use and small agricultural support equipment (e.g., ATVs, tractors, and forklifts). From a noise standpoint, Project activities will be consistent with agricultural and vehicle equipment used at the Site under baseline conditions.

Comments have been raised regarding the potential of the project to create substantial noise which will adversely affect adjacent property owners and residents. The project will be consistent with the CNEL standards of the Humboldt County General Plan which will require the project to be demonstrated to not contribute more than 60 decibels as measured at the property lines. This will ensure that noise levels at any sensitive receptor are below the noise threshold established in the General Plan as suitable for sensitive receptors. If the findings of the investigation show that noise levels do not meet the CNEL standard, an appropriate noise study shall be conducted at the applicant/operators' expense. If the findings of the noise study show that noise levels do not meet the CNEL standard, the applicant/operator shall have a minimum of 10 days to develop a plan to bring noise levels into compliance.

- h) The project complies with the Safety Element of the General Plan as follows:

The subject parcels are not within a mapped Fire Hazard severity area. According to the Humboldt County Geographic Information System (GIS) the project location is within the 100-year floodplain of the Mad River. However, according to an October 30, 1997 Letter of Map Amendment from the Federal Emergency Management Agency ("FEMA"), the Site is not located in a Special Flood Hazard Area, that is the area that would be inundated by a flood having a one percent chance of being equaled or exceeded in any given year. Public comments have asserted that the project would be inconsistent with the Safety Element because it would locate new development in a tsunami zone, however according to the California Geologic Survey the project site is outside of the mapped tsunami hazard zone.

## 7. FINDING

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

**EVIDENCE**

- a) The Heavy Industrial or MH Zone is intended to apply to areas devoted to normal operations of industries subject only to regulations as are needed to control congestion and protect surrounding areas. The existing uses on the site are intensive agricultural production, and the MH zone is specifically identified in the Commercial Medical Marijuana Land Use Ordinance as an appropriate zone district for commercial cannabis cultivation.
- b) The purpose of the "Q" qualification is to allow for the continued use of the existing Wood Products Processing facilities with vehicular traffic of no greater intensity than an employee average daily trips (ADT) of 765 trips per day and a truck trip ADT of 54 trips per day during the hours of 6:00 A.M. to 4:00 P.M. and during the period of 4:00 P.M. to 12:00 A.M. an employee ADT of 383 "trips per day and a truck trip ADT of 27 trips per day (1,229 total trips), and to prohibit expansion of the existing use or the establishment of new uses without first obtaining a use permit. This application is for a Conditional Use Permit and the daily trips generated by the proposed project will be well below the maximum amount allowed under the Q zone.
- c) The location and height of all project elements meet the setback and building height requirements for the MH zone.
- d) The parcels were created in compliance with all applicable state and local subdivision regulations. The parcels known as APN 506-231-021 and 505-151-011 are one separate legal parcel, and 505-151-012 is one separate legal parcel, all created by Notice of Lot Line Adjustment and Certificate of Subdivision Compliance (LLA-17-005) recorded April 14, 2020.

**8. FINDING**

The proposed development is consistent with the requirements of the CMMLUO Provisions of the Zoning Ordinance.

**EVIDENCE**

- a) The CMMLUO allows commercial cannabis cultivation to be permitted in areas zoned MH (HCC § 314-55.4.8.2.1.2). There are no limitations on size of cultivation area specified within HCC § 314-55.4.8.2.1.2. This permit would authorize eight acres of cannabis cultivation with 30,000 square feet of ancillary propagation area. While comments have been submitted by Humboldt County growers Alliance stating that the CCLUO allows no more than eight acres of cultivation, this application was applied for and is being processed under the CMMLUO which has such restriction.
- b) All of the project elements other than the irrigation well are within the MH zoned area.  
  
The project will obtain water from a permitted well that is within a defined groundwater basin and is not diverting from nearby surface waters, and from the City of Arcata.
- d) The location of the cultivation complies with all setbacks and performance standards of the CMMLUO.
- e) All the applicable performance standards are included as conditions of project approval. They are required to be met throughout the timeframe of the permit.

- f) According to records maintained by the Department, the applicant holds three other cannabis activity permits, and is entitled to four. This application is for one Conditional Use Permit.

**9. FINDING**

Resolution No. 18-43. Resolution Establishing a Cap on the Number Permits and Acres Which May Be Approved for Commercial Cannabis Cultivation.

- a) The Project is located within Eureka Plain Planning Watershed. Resolution 18-43 limits a maximum of 89 permits totaling no more than 31 acres to be permitted within the watershed. Currently there are 12 permits totaling 2.6 acres of cannabis cultivation permitted within the watershed and there are 28 permits totaling 18.49 acres of cannabis cultivation pending approval, for a total of 40 permits and 21.09 acres. This Project represents one permit for eight acres of the 18.49 acres of cannabis cultivation pending approval.

**10. FINDING**

The operation of a commercial cannabis cultivation operation and the conditions under which it may be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

**EVIDENCE**

- a) The site is located on paved County-maintained road that can safely accommodate the amount of traffic.
- b) The proposal to operate a commercial cannabis cultivation operation is similar to other agricultural uses in the immediate area.
- c) The location of the operation is more than 600 feet from any school, school bus stop, or church.
- d) Irrigation water will be sourced from a permitted well.

**11. FINDING**

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

**EVIDENCE**

The parcel was not included in the housing inventory of Humboldt County's 2019 Housing Element and is zoned heavy industrial.

**DECISION**

**NOW, THEREFORE,** based on the above findings and evidence, the Humboldt County Planning Commission does hereby:

- Adopts the Mitigated Negative Declaration for the Arcata Land Company, LLC Conditional Use Permit; and
- Adopt the findings set forth in this resolution; and

- Conditionally approves the Conditional Use Permit for Arcata Land Company, LLC based upon the Findings and Evidence and subject to the conditions of approval attached hereto as Attachment 1 and incorporated herein by reference; and

Adopted after review and consideration of all the evidence on April 22, 2021.

The motion was made by COMMISSIONER Mike Newman and second by COMMISSIONER Noah Levy and the following ROLL CALL vote:

AYES: COMMISSIONERS: Alan Bongio, Thomas Mulder, Noah Levy, Mike Newman,  
Melanie McCavour

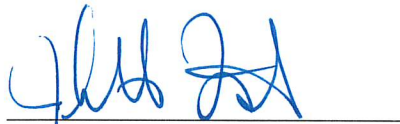
NOES: COMMISSIONERS: Peggy O'Neill, Brian Mitchell

ABSENT: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

DECISION: Motion carries 5/2

I, John Ford, Secretary to the Planning Commission of the County of Humboldt, do hereby certify the foregoing to be a true and correct record of the action taken on the above entitled matter by said Commission at a meeting held on the date noted above.



John Ford, Director  
Planning and Building Department

## ATTACHMENT 1A

### **REVISED RECOMMENDED CONDITIONS OF APPROVAL**

Approval of the Conditional Use Permit is conditioned on the following terms and requirements which must be satisfied before site development or initiation of operations.

#### **Section 1: Development Restrictions**

1. The applicant shall submit a check to the Planning Division payable to the Humboldt County Clerk/Recorder in the amount of \$2,530.25. 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, 2021, 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 \$2,530.25 fee payment requirement. In this instance, only a copy of the CDFW form and the \$50.00 handling fee is required.
2. The project shall be developed and operated in accordance with the approved Operations Plan and the Site and Utility Plan.
3. The project shall meet all applicable fire codes, including fire suppression infrastructure requirements deemed necessary for the project. Sign off on the Occupancy Permit by the Building Division shall satisfy this requirement.
4. The applicant shall verify adequate fire apparatus access per California Code in accordance with the comments from Arcata Fire Protection District.
5. Where feasible, new utilities shall be underground or sited unobtrusively if above ground.
6. The applicant shall obtain from the Building Division any Building or other required permits prior to commencing construction activities or the approved use (i.e. grading building plumbing electrical, mechanical, etc.).
7. Due to staffing demands and projected wastewater flow rates, a cumulative impact study for groundwater mounding and nitrogen loading will be required before the Division of Environmental Health can approve any new septic construction permits.
8. Prior to initiating commercial cannabis cultivation or associated activities the applicant shall obtain a Business License from the Humboldt County Tax Collector.
9. 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.
10. The approved building plans shall address odor management by incorporating a ventilation/air filtration system that 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. There shall be a description of the odor control system and procedures for ongoing maintenance of the system. The plan shall designate a staff member to receive, document, and follow-up on odor complaints. The plan shall include procedures to document and respond to any odor complaints that include: a contact name and phone number to report odor complaints, the source or cause of any odor complaints, and actions taken to mitigate the odors. Complaint records shall be maintained for a minimum of five years from the date the

complaint is received and be provided to the County or NCUAQMD upon request (**ongoing condition of approval**).

11. 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 release of the Building Permit and initiation of operations. Ongoing proof of compliance with this condition shall be required at each annual inspection in order to keep the permit valid.
12. Prior to initiating operation, the applicant shall meet all of the requirements and obtain all necessary permits from the Division of Environmental Health. The applicant shall submit written verification from that agency verifying this requirement has been met.
13. All signage shall comply with Section 314-87.2 of the Humboldt County Code, and shall be subject to review and approval by the Planning Director. Signage shall be compatible with surrounding uses and not distract from visitor serving uses in the area.
14. The existing driveway that connects to Foster Avenue shall be improved to current standards for a commercial driveway. An encroachment permit shall be obtained from the Department of Public Works prior to commencement of any work in the County maintained right of way.
15. The applicant shall pay proportional share fees to the City of Arcata to alleviate the project's contribution to the needed improvements at Foster Avenue/Alliance Road and Sunset Avenue/US 101 North Ramps, consisting of \$13,512 and \$8,714, respectively.
16. There shall be no development within the 20' wide PG&E easement shown on the Site and Utility Plan, Sheet C2.0 (Note 5.1) until it is approved by PG&E, or the easement has been extinguished.
17. If there needs to be any rearrangement of existing PG&E facilities on the property, the owner/applicant will bear the burden of that cost.
18. Prior to the issuance of building permits, the applicant shall submit a revised Operations Manual to the Planning and Building Department describing how odor resulting from the harvesting and transport of cannabis to the processing facility on the adjacent parcel will be mitigated and/or controlled, consistent with Condition 3 of the Ongoing Requirements/Development Restrictions Which Must be Satisfied for the Life of the Project.
19. Prior to the issuance of building permits, the applicant/operator shall submit a noise study based on fan manufacturer specifications for the review of the Planning and Building Department demonstrating that cumulative sound levels from the fans within the greenhouses shall not exceed 60 CNEL (Community Noise Equivalent Level) measured at the property lines.
20. Prior to any development or the issuance of building permits, the applicant/operator shall submit a revised Operations Manual and Site and Utility Plan describing and illustrating the elements of the project in its' modified form for the review and approval of the Planning and Building Department.
21. **The applicant shall plant native tree species along the eastern boundaries of parcels 505-151-012 and 506-231-022 in order to establish a visual buffer between the project site and the neighborhoods to the east. The trees must be planted outside of the PG&E gas line easement that runs along said parcel boundaries. Native tree species selection is subject to the review and approval of the Planning and Building Department prior to planting.**

#### **A. General Conditions**

1. The applicant is responsible for obtaining all necessary County and State permits and licenses, and



for meeting all requirements set forth by other regulatory agencies.

2. The applicant is required to pay for permit processing on a time and material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Planning and Building Department will provide a bill to the applicant after the decision. Any and all outstanding planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
3. The Applicant is responsible for costs for post-approval review for determining project conformance with conditions. A deposit is collected to cover this staff review. Permit conformance with conditions must be demonstrated prior to release of building permit or initiation of use and at time of annual inspection. A conformance review deposit as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$750) shall be paid within sixty (60) days of the effective date of the permit or upon filing of the Compliance Agreement (where applicable), whichever occurs first. Payment shall be made to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
4. A Notice of Determination (NOD) will be prepared and filed with the County Clerk for this project in accordance with the State CEQA Guidelines. The Department will file the NOE and will charge this cost to the project.

**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 and Utility 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. The well shall be metered to show annual water use. If the water use exceeds the anticipated needs. The County reserves the right to reduce the cultivation area to a size relative to well water availability until additional storage adequate to meet annual irrigation needs are in place.
3. For the life of the project, the project shall not result in a continued discernable odor of cannabis at the property lines of adjoining existing residential uses. Should the Planning and Building Department receive complaints regarding odor, the Planning and Building Department will inspect and evaluate the cause of the perceived odor. If it is determined by staff that the project is causing the odor, staff will work with the applicant/operator to resolve and return the project to compliance in a timely manner. Resolution may entail additional maintenance and/or replacement of the air filtration system. At a minimum, the applicant/operator shall present a plan to the Planning and Building Department within 10 days of initial County contact to address the odor.
4. **The applicant shall purchase 100% renewable grid power through Redwood Coast Energy Authority (Re-Power Plus) or a suitable equivalent source, subject to the approval of the Planning and Building Department.**
5. The intersection of the access driveway and Foster Avenue shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance).
6. 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.

7. 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.
8. In the event there are complaints regarding noise from the fans within the greenhouses, staff will investigate if there is a likelihood that noise from the fans is exceeding the CNEL standard. If the findings of the investigation show that noise levels do not meet the CNEL standard, an appropriate noise study shall be conducted at the applicant/operators' expense. If the findings of the noise study show that noise levels do not meet the CNEL standard, the applicant/operator shall have a minimum of 10 days to develop a plan to bring noise levels into compliance.
9. Confinement of the area of cannabis cultivation to the locations depicted on the approved site plan. The commercial cannabis activity shall be set back at least 30 feet (or setback for the underlying zone) 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).
10. Maintain enrollment in Tier 1, 2 or 3, certification with the State Water Board Order WQ 2019-0001-DWQ, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
11. 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).
12. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
13. Pay all applicable application, review for conformance with conditions and annual inspection fees.
14. 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.
15. 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.
16. All refuse shall be contained in wildlife proof storage containers, at all times, and disposed of at an authorized waste management facility.
17. The burning of excess plant material associated with the cultivation and processing of commercial cannabis is prohibited.
18. 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.
19. 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.
20. The Master Log-Books maintained by the applicant to track production and sales shall be maintained for inspection by the County.

21. Participate in and bear costs for permittee's participation in the State sanctioned tracking program (METRC).

Performance Standards for Cultivation and Processing Operations

22. Pursuant to Business and Professions Code section 26051.5(a)(8), an applicant seeking a cultivation license shall "provide a statement declaring the applicant is an 'agricultural employer,' as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law."

23. 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).

24. 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.

25. 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.

26. 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.

27. Term of Commercial Cannabis Activity Permit. Any Commercial Cannabis 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 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 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 55.4.12.3 of the CMMLUO.

28. Permit Renewals to comply with Updated Laws and Regulations. Permit renewal per Ongoing Condition of Approval #25, above, is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that new standards are met.

29. 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.

30. 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 Commercial Cannabis.

31. 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 building permits have been secured and/or the use initiated pursuant to the terms of the agreement, the use is subject to the Permit Duration and Renewal provisions set forth in Humboldt County Code.
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 and the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and the lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, groundstone artifacts, shellfish or faunal remains, and human burials. If human remains are found, California Health and Safety Code 7050.5 requires that the County Coroner be contacted immediately at 707-445-7242. If the Coroner determines the remains to be Native American, the Native American Heritage Commission will then be contacted by the Coroner to determine appropriate treatment of the remains pursuant to Public Resources Code (PRC) Section 5097.98. Violators shall be prosecuted in accordance with PRC Section 5097.99.

**ATTACHMENT 1B**

**MITIGATION MONITORING REPORT**

**Record Number:** PLN-12255-CUP

**Assessor Parcel Numbers:** 506-231-021 and 505-151-011

Mitigation measures were incorporated into conditions of project approval for the above referenced project. The following is a list of these measures and a verification form that the conditions have been met. For conditions that require ongoing monitoring, attach the Monitoring Form for Continuing Requirements for subsequent verifications.

**Mitigation Measures:**

**Biological Resources**

**BR-1: Preconstruction Bird Surveys**

Project-related vegetation management should occur outside the bird nesting season, (February 28 through September 1). If project-related brush clearing must occur during the breeding season, a preconstruction nesting-bird survey shall be conducted by a qualified biologist no more than two weeks prior to Project activities. If active nests are found, a no-disturbance buffer zone of a minimum of 250 feet shall be established. Within this buffer zone, no construction shall take place until September 1 or until the biologist determines that the nest is no longer active.

Implementation Time Frame	Monitoring Frequency	Date Verified	To Be Verified By	Compliance		Comments / Action Taken
				Yes	No	
If vegetation removal is to occur during the bird nesting season (Feb 28 – Sept 1).	Annually		HCP&BD*			

**BR-2: Protection of Drainage Ditches**

Use standard BMPs during ground disturbance activities and remove construction debris and waste from and up to 100 feet around drainage ditches.

Implementation Time Frame	Monitoring Frequency	Date Verified	To Be Verified By	Compliance		Comments / Action Taken
				Yes	No	
During construction activity and project operations.	Continuous		HCP&BD*			

**Cultural Resources**

**CR-1: Inadvertent Discovery Protocol**

If suspected cultural resources, such as lithic materials or ground stone, historic debris, building foundations, or bone are discovered during Project activities, work shall be stopped within 100 feet of the discovery. Contact will be made to the County, a professional archaeologist and representatives from the Blue Lake Rancheria, Bear River Band of Rohnerville Rancheria, and Wiyot Tribe. The professional historic resource consultant, Tribes and County officials will coordinate provide an assessment of the find and determine the significance and recommend next steps.

If human remains are discovered during Project activities, work will stop at the discovery location, within 100 feet, and any nearby area reasonably suspected to overlie adjacent to human remains (Public Resources Code, Section 7050.5). The Humboldt County coroner will be contacted to determine if the cause of death must be investigated. If the coroner determines that the remains are of Native American origin, it is necessary to comply with state laws relating to the disposition of Native American burials, which fall within the jurisdiction of the NAHC (Public Resources Code, Section 5097). The coroner will contact the NAHC. The descendants or most likely descendants of the deceased will be contacted, and work will not resume until they have made a recommendation to the landowner or the person responsible for the excavation work for means of treatment and disposition, with appropriate dignity, of the human remains and any associated grave goods, as provided in Public Resources Code, Section 5097.98.

Implementation Time Frame	Monitoring Frequency	Date Verified	To Be Verified By	Compliance		Comments / Action Taken
				Yes	No	
During construction activity and project operations.	Continuous		HCP&BD*			

## Geology and Soils

### GEO-1: Inadvertent Discovery Protocol

In the event that paleontological resources are discovered, work shall be stopped within 100 feet of the discovery and a qualified paleontologist shall be notified. The paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find under the criteria set forth in State CEQA Guidelines Section 15064.5. If fossilized materials are discovered during construction, excavations within 100 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist. The paleontologist shall notify the appropriate agency to determine procedures that would be followed before construction is allowed to resume at the location of the find.

Implementation Time Frame	Monitoring Frequency	Date Verified	To Be Verified By	Compliance		Comments / Action Taken
				Yes	No	
During construction activity and project operations.	Continuous		HCP&BD*			

## Tribal Cultural Resources

### TCR-1: Inadvertent Discovery Protocol

If suspected cultural resources, such as lithic materials or ground stone, historic debris, building foundations, or bone are discovered during Project activities, work shall be stopped within 100 feet of the discovery. Contact will be made to the County, a professional archaeologist and representatives from the Blue Lake Rancheria, Bear River Band of Rohnerville Rancheria, and Wiyot Tribe. The professional historic resource consultant, Tribes and County officials will coordinate provide an assessment of the find and determine the significance and recommend next steps.

If human remains are discovered during Project activities, work will stop at the discovery location, within 100 feet, and any nearby area reasonably suspected to overlie adjacent to human remains (Public Resources Code, Section 7050.5). The Humboldt County coroner will be contacted to determine if the cause of death must be investigated. If the coroner determines that the remains are of Native American origin, it is necessary to comply with state laws relating to the disposition of Native American burials, which fall within the jurisdiction of the NAHC (Public Resources Code, Section 5097). The coroner will contact the NAHC. The descendants or most likely descendants of

the deceased will be contacted, and work will not resume until they have made a recommendation to the landowner or the person responsible for the excavation work for means of treatment and disposition, with appropriate dignity, of the human remains and any associated grave goods, as provided in Public Resources Code, Section 5097.98.

Implementation Time Frame	Monitoring Frequency	Date Verified	To Be Verified By	Compliance		Comments / Action Taken
				Yes	No	
During construction activity and project operations.	Continuous		HCP&BD*			

\* HCP&BD = Humboldt County Planning and Building Department