

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; Meeting on October 20, 2020

Resolution No. ____ - ____ Resolution of the Board of Supervisors of the County of Humboldt CONSIDERING AN ADDENDUM TO THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE COMMERCIAL CANNABIS LAND USE ORDINANCE, ADOPTING FINDINGS OF FACT, GRANTING THE APPEAL FOR RECORD NO. PLN-2020-16608 AND APPROVING THE MAPLE CREEK INVESTMENTS, LLC SPECIAL PERMIT, RECORD NO. PLN-2018-15197.

WHEREAS, Maple Creek Investments, LLC applied for a Special Permit for 27,025 square feet of new commercial cannabis cultivation under the County's Commercial Cannabis Land Use Ordinance (CCLUO) on December 14, 2018; and

WHEREAS, the Planning and Building Department reviewed the submitted application and supporting evidence and referred the application and evidence to applicable reviewing agencies for site inspections, comments and recommendations; and

WHEREAS, on August 6, 2020 the Planning Commission:

1. Denied the Special Permit Application by a vote of 4-2.

WHEREAS, Maple Creek Investments, LLC ("Appellant") on August 20, 2020, filed an appeal in accordance with the Appeal Procedures specified in Humboldt County Code Section 312-13 et seq.; and

WHEREAS, the Board of Supervisors held a duly-noticed public hearing, *de-novo*, on October 20, 2020 and on November 17, 2020, and reviewed, considered, and discussed the application and appeal for the Special Permit; 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:

- 1. FINDING:** **Project Description:** The application is a Special Permit to allow 27,025 square feet (sf) of new outdoor commercial cannabis cultivation and a 2,000 square-foot (SF) on-site processing facility. The cannabis cultivation technique will be full sun planted in the ground. Projected annual water usage is estimated 200,000 gallons. Water storage will include four 50,000-gallon hard tanks. The irrigation water source will be rain catchment. As a condition of approval, the Board of Supervisors required modification to the site plan and limited the cultivation area to 22,000 square feet.

EVIDENCE: a) Project File: PLN 2020-16608 and PLN-2018-15197

2. FINDING: **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Board of Supervisors has considered the Addendum to and the Final Environmental Impact Report (EIR) prepared for the Commercial Cannabis Land Use Ordinance (CCLUO) adopted by the Humboldt County Board of Supervisors on May 8, 2018.

EVIDENCE:

- a) Addendum Prepared for the proposed project.
- b) The proposed project does not present substantial changes that would require major revisions to the previous EIR. No new information of substantial importance that was not known and could not be known at the time was presented as described by §15162(c) of CEQA Guidelines
- c) A Noise Source Assessment was carried out by Six Rivers Development LLC in August 2019. Using a REED Instruments R8080 sound level meter, an average dBA of 37.5 was recorded based on three recordings in different parts of the parcel at different times of the day. The CCLUO requires that noise from the operation be no more than 3 decibels above ambient at the property lines. This will be an ongoing condition of approval.
- d) A Preliminary Biological Assessment Report was carried out by TransTerra Consulting and Mother Earth Engineering in November of 2018. The Assessment methods included a search of the California Natural Diversity Database (CNDDDB) and California Native Plant Society (CNPS) database. A habitat assessment was conducted in the project area. No Special Status species were observed during the assessment. The Report recommends the use of natural fibers for cultivation netting and to avoid sediment transport into jurisdictional waters to avoid impacts to aquatic life.
- e) Northern Spotted Owl activity centers have been recorded in the area of the subject parcel although there is not an activity center within 2,300 feet of the cultivation site. There is an NSO siting in the northwest corner of the parcel, this dates back to the year 2000 but no additional siting's have been recorded at this location since that time. The project will not produce noise above 50dB at 100' from noise sources or at the edge of habitat, whichever is nearest. The operation is outdoor cultivation and the source of power will be PG&E. Generators will be used for backup power only
- f) A Cultural Resources Investigation Report was carried out by Roscoe and Associates Cultural Resource Consultants in November 2018. The Report identified previously conducted investigations which found artifacts in the project area. No known cultural resources fall in direct proximity to the project site with the nearest known artifact being 75 meters away. Field surveys did not identify historic or pre-historic artifacts on the project site.

The Report recommends that Inadvertent Archaeological Discovery protocols be included as ongoing conditions of approval.

FINDINGS FOR SPECIAL PERMIT

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

EVIDENCE a) General agriculture is a use type permitted in the Residential Agriculture (RA) land use designation. General agriculture is also a principal permitted use in the Forestry Recreation (FR) zoning district. 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.

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

EVIDENCE a) The Forestry Recreation or FR Zone is intended to be applied to forested areas of the County in which timber production and recreation are the desirable predominant uses and agriculture is the secondary use, and in which protection of the timber and recreational lands is essential to the general welfare.

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

c) Humboldt County Code section 314-55.4.6.1 allows cultivation of up to 43,560 square feet of cannabis on a parcel over 10 acres subject to approval of a Special Permit. The application for 27,025 square feet of outdoor cultivation on a 42 acre parcel is consistent with this.

5. FINDING The proposed development is consistent with the requirements of the CCLUO Provisions of the Zoning Ordinance.

EVIDENCE a) The CCLUO allows cannabis cultivation in areas zoned FR (HCC 314-55.4.6.1).

b) The project will obtain water from a non-diversionary water source.

- c) The site is accessed from a paved County road and complies with the Road Performance Standards contained in 314-4.12.1.8. A Road Evaluation Report was completed by Six Rivers Developments in September 2018. The Evaluation addressed Butler Valley Road from Maple Creek Road to Kneeland Road, Maple Creek from Blue Lake Blvd to Butler Valley Road, and Kneeland Road from Freshwater Road to Butler Valley Road. All road segments evaluated were found to be Category 4 equivalent. The short driveway to the project site is rocked and gated.
- d) The slope of the land where cannabis will be cultivated is less than 15%
- e) The cultivation of cannabis will not result in the conversion of timberland. A Timber Conversion Investigation was completed by Blair Forestry Consulting in June 2019. The Report found the site had been a homestead since approximately 1953 and no commercial tree species were cleared from the historic homestead site. Instead, fruit trees and other overgrown brush were cleared to allow use of the site.
- f) The location of the cultivation complies with all setbacks required in Section 314-55.4.66.4.4. It is more than 30 feet from any property line, more than 300 feet from any off site residence, more than 600 feet from any school, church, public park or Tribal Cultural Resource

6. FINDING

The cultivation of 22,000 square feet of cannabis cultivation 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 a paved County Road which can accommodate the amount of traffic generated by the proposed cannabis cultivation.
- b) The site is in a rural part of the County where the typical parcel size is over 40 acres and many of the land holdings are very large. The proposed cannabis will not be in a location where there is an established neighborhood or other sensitive receptor such as a school, church, park or other use which may be sensitive to cannabis cultivation. Approving cultivation on this site and the other sites which have been approved or are in the application process will not change the character of the area due to the large parcel sized in the area.
- c) The location of the proposed cannabis cultivation is more than 800 feet from the nearest off site residence.
- d) Irrigation water will come from rainwater catchment thus the cultivation will not affect water quantity in the aquifer.

- e) Provisions have been made in the applicant’s proposal to protect water quality and thus runoff to adjacent property and infiltration of water to groundwater resources will not be affected.
- f) The water used for cultivation will by rainwater catchment and will not conflict with any proposed or future Groundwater Sustainability Plan or Groundwater Sustainability Agency associated with the Mad River.
- g) The project has been modified to ensure there is a 30 foot setback along Butler Valley Road with planting to reflect the forested environment in the area. This will minimize any visual impact upon the area.

7. FINDING

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

EVIDENCE

- a) APN 315-011-009 was included in the housing inventory of Humboldt County’s 2019 Housing Element and has the potential to support one housing unit. The approval of cannabis cultivation on this parcel will not conflict with the ability for a residence to be constructed on this parcel.

FINDINGS FOR APPEAL

8. FINDING:

The Planning Commission is required by law to state the reasons for denial and provide an itemized resolution for the reason of denial of a project and failed to do so. The Planning Commission erred in not providing written findings supporting their decision.

EVIDENCE:

- a) Humboldt County Code section 312-6.5.1 states: *Following public review, the Hearing Officer shall approve, conditionally approve, or deny the proposed project in accordance with the particular requirements of this Code as they apply to the project, and in accordance with the required findings of this Code. (See, Sections 312-17, Required Findings, and Sections 312-18 through 312-49, Supplemental Findings.) The Hearing Officer’s decision shall be expressed in writing.*
- b) The Planning Commission did not adopt written findings supporting the decision to deny the Application.

9. FINDING

The Planning and Building Department is not obligated to support the denial of an application by the Planning Commission when providing stall analysis to the Board of Supervisors.

EVIDENCE

- a) The Humboldt County Code does not require the Planning and Building Department to support a Planning Commission decision in an appeal.
- b) An appeal is a de novo hearing, meaning the application it is completely

reconsidered. It is not a recommendation from the Planning Commission.

- c) The Board of Supervisors has authority to approve, conditionally approve or deny an appeal.

10. FINDING

The Commission failed to discharge its duty to conduct a hearing free of bias and be fair under constitutional due process principles. The appellant sights statements by members of the Commission that the appellant feels exhibit bias based on personal experiences, and in turn influenced the action of the commission.

EVIDENCE

- a) Bias apart from a resolution is difficult to determine. Since the Planning Commission did not adopt written findings, they did fail to discharge their duties and it is not possible to reject the possibility of bias.

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

- 1 Adopts the findings set forth in this Resolution; and
- 2 Declares it has considered the Addendum to the Final EIR for the Commercial Cannabis Land Use Ordinance; and
- 3 Grants the Appeal submitted by Maple Creek Investments, LLC identified as Record Number PLN-2020-16608; and
- 4 Approves the requested Special Permit for Record Number PLN-2018-15197 subject to the conditions of approval in Attachment 1; and
- 5 Directs Planning Staff to prepare and file the Notice of Determination in compliance with the California Environmental Quality Act.

The foregoing Resolution is hereby passed and adopted by the Board of Supervisors on October 20, 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 SPECIAL PERMIT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE SATISFIED BEFORE RELEASE OF THE BUILDING PERMIT AND/OR INITIATION OF OPERATIONS.

Section 1: Conditions of Approval

1. A Notice of Determination (NOD) will be prepared and filed for this project in accordance with the State CEQA Guidelines. **Within three days of the effective date of permit approval**, it is requested that the applicant submit a check or money order for the required filing fee in the amount of \$50 payable to the Humboldt County Clerk/Recorder. If this payment is not received within this time period, the Department will file the NOD and will charge this cost to the project.
2. The applicant shall contact the local fire service provider [Kneeland Volunteer Fire Company] and furnish written documentation from that agency of the available emergency response and fire suppression services. If emergency response and fire suppression services are not provided, the applicant shall cause to be recorded an "ACKNOWLEDGMENT OF NO AVAILABLE EMERGENCY RESPONSE AND FIRE SUPPRESSION SERVICES" for the parcel(s) on a form provided by the Humboldt County Planning Division. Document review fees as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors will be required.
3. All fences and gates shall be relocated 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. Approval from Public Works will satisfy this condition.
4. The applicant shall obtain an encroachment permit pave the driveway apron for a minimum of 18 feet wide and a length of 50 feet to achieve compliance with commercial driveway standards. The driveway and private road intersections onto County roads shall comply with the Sight Visibility Ordinance. Approval from Public Works will satisfy this condition.
5. The applicant shall obtain 100% renewable energy as the power source for the subject project. A letter or bill from P.G. & E. will satisfy this condition.
6. 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 operation. Ongoing proof of compliance with this condition shall be required at each annual inspection in order to keep the permit valid.
7. If applicable, the Applicant shall secure permits from the North Coast Unified Air Quality Management District. A letter or similar communication from the North Coast Air Quality Management District verifying that all their requirements have been met and/or no additional permitting is required will satisfy this condition.
8. 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. 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.

9. 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.
10. The site plan is approved as shown in the Staff Alternative Attached to these Conditions.
11. The minimum setback along Butler Valley Road shall be 30 feet. A screening fence shall be placed along the edge of the cultivation area. Between the cultivation area and the edge of pavement all existing trees and significant shrubs which provide screening value shall be retained. In addition, the area shall be planted with native evergreen trees and shrubs to effectively screen the cultivation site from Butler Valley Road.

Section 2: On-Going Requirements/Development Restrictions Which Must Continue 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 CCLUO and MAUCRSA, as applicable to the permit type.
3. The applicant's surface water diversion cannot be used at any time for the irrigation of cannabis.
4. If operating pursuant to a written approved compliance agreement, permittee shall abate or cure violations at the earliest feasible date, but in no event no more than two (2) years from the date of issuance of a provisional clearance or permit. Permittee shall provide plans for curing such violations to the Planning and Building Department within one (1) year of issuance of the provisional clearance or permit. If good faith effort towards compliance

can be shown within the two years following the issuance of the provisional clearance or permit, The Planning Department may, at the discretion of the Director, provide for extensions of the provisional permit to allow for additional time to meet the outstanding requirements.

5. 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.
6. Compliance with all statutes, regulations and requirements of the California State Water Resources Control Board and the Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration, as applicable.
7. Confinement of the area of cannabis cultivation, processing, manufacture or distribution to the locations depicted on the approved site plan. The commercial cannabis activity shall be set back at least 30 feet from any property line, and 600 feet from any School, School Bus Stop, Church or other Place of Religious Worship, or Tribal Cultural Resources, except where a reduction to this setback has been approved pursuant to Section 55.4.6.4.4.
8. Maintain enrollment in Tier 1, 2 or 3, certification with the State Water Resources Control Board (SWRCB) General Order NO 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.
9. 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).
10. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
11. Pay all applicable application, review for conformance with conditions and annual inspection fees.
12. 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 all noise sources measured at the property lines shall be no more than 40.5 decibels as based on the baseline noise analysis submitted by Six Rivers Development for the project. 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.
13. The applicant must adhere to and implement the Recommendations detailed within the Wetland Delineation conducted for the project.

14. The applicant must adhere to and implement the Recommendations detailed within the Invasive Species Management Plan prepared for the project.
15. The applicant shall provide annual proof of participation in the RE Power+ Plan that is to supply 100% renewable energy to the project through the Redwood Coast Energy Authority.
16. 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.
17. 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.
18. All refuse shall be contained in wildlife proof storage containers, at all times, and disposed of at an authorized waste management facility.
19. 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.
20. The burning of excess plant material associated with the cultivation and processing of commercial cannabis is prohibited.
21. 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.
22. 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.
23. 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 (Metr).

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 Special Permit issued pursuant to the CCLUO 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.

31. Permit Renewals to comply with Updated Laws and Regulations. Permit renewal per Ongoing Condition of Approval #30, 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.

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 55.4.6.5.7 of 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. 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 permit, the use is subject to the Permit Duration and Renewal provisions set forth in Condition of Approval #30 of the On-Going Requirements /Development Restrictions, above.

3. 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.

4. The applicant is required to pay for permit processing on a time and material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Department will provide a bill to the applicant after the decision. Any and all outstanding Planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
5. The Applicant is responsible for costs for post-approval review for determining project conformance with conditions. 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.
6. A Notice of Determination (NOD) will be prepared and filed with the County Clerk for this project in accordance with the State CEQA Guidelines. Within three days of the effective date of permit approval, it is requested that the applicant submit a check or money order for the required filing fee in the amount of \$50 payable to the Humboldt County Clerk/Recorder. If this payment is not received within this time period, the Department will file the NOD and will charge this cost to the project.