

BOARD OF SUPERVISORS, COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

Certified copy of portion of proceedings; Meeting on \_\_\_\_\_, 2022

Resolution No. 22-\_\_\_ Resolution of the Board of Supervisors of the County of Humboldt ADOPTING FINDINGS OF FACT, ADOPTING A MITIGATED NEGATIVE DECLARATION, DENYING THE APPEAL FOR RECORD NO. PLN-17776, APPROVING THE BLOCKSBURG FAMILY FARM, LLC, CONDITIONAL USE PERMIT RECORD NO. PLN-12265-CUP, AND ADOPTING THE MITIGATION MONITORING AND REPORTING PROGRAM.

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

**WHEREAS, Blocksburg Family Farms, LLC**, submitted an application and evidence in support of approving a Conditional Use Permit for Record No, PLN-12265-CUP; and

**WHEREAS**, permits requested include a Conditional Use Permit for six acres of new outdoor and light deprivation cultivation and 16,800 s.f. of existing outdoor cannabis; and

**WHEREAS**, a Conditional Use Permit is required under Section 55.4.8.2.1.1 of the Humboldt County Code for outdoor and light deprivation cultivation for the area of cultivation requested, on parcels 320 acres or larger, and on-site processing and nurseries, in the Agriculture Exclusive Zone; and

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

**WHEREAS**, on May 5, 2022, the Planning Commission took the following actions:

1. Adopted the Mitigated Negative Declaration with the Mitigation Monitoring and Reporting Program in Attachment, for the Blocksburg Family Farm, LLC project; and
2. Found based on the submitted substantial evidence that the proposed project complies with the General Plan and Zoning Ordinance; and
3. Approved the Conditional Use Permits under record No. PLN-12265-CUP as conditioned.

**WHEREAS**, on May 19, 2022, Robie Tenorio on behalf of Citizens for Sustainable Humboldt and North Coast Environmental Center (“Appellant”) 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 June 13, 2022, and reviewed, considered, and discussed the application and appeal for the Conditional Use Permits; and reviewed and considered all public testimony and evidence presented at the hearing.

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

- 1. FINDING:**                    **Project Description:** A Conditional Use Permit for 6.39 acres of outdoor cultivation including 16,800 sf of existing cannabis authorized under interim permit, on a parcel of approximately 1,221 acres. The proposed six acres of new cultivation will comprise of three acres full term outdoor and three acres of Light Deprivation, and with ancillary facilities, will be developed in four phases over four years. Water would be provided by an onsite well, a 2.2-million-gallon rain catchment pond, and a one-million-gallon rainwater catchment tank. Total irrigation demand by Phase IV is anticipated to be approximately 3.1 million gallons per year, with the rain catchment pond being the primary source of water by Phases II and III. The project includes 8,000 sf of proposed and 2,000 sf of existing ancillary nursery space. Processing would occur onsite in a proposed 7,200 sf multi-use building in the footprint of a burned down barn. Power would be provided principally by a generator for Phase I and Phase II. By Phase III, a solar array would provide the power, with generators retained for backup use only. Phase I of the project would require approximately six employees. Phases II & III would require a maximum of twenty-five employees and incorporates a vanpool.

**EVIDENCE:** a) Project File: PLN-12265-CUP

- 2. FINDING:**                    **CEQA.** The requirements of the California Environmental Quality Act have been complied with. A Mitigated Negative Declaration (MND) was prepared for the project and circulated for public review. The conclusion of the MND is that there are not any potentially significant impacts that cannot be mitigated. The Board has

considered the MND together with comments received. The Board finds on the basis of the whole of the record that there is no substantial evidence that the project will have a significant effect on the environment. The Board finds that the MND reflects the County's independent judgment and analysis.

- EVIDENCE:**
- a) Environmental review for the proposed project included the preparation of an Initial Study/Mitigated Negative Declaration (IS/MND) pursuant to the California Environmental Quality Act (CEQA) Statute (Public Resources Code 21000–21189) and Guidelines (California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000–15387).
  - b) The CEQA document includes an analysis of the subject proposed Conditional Use Permit. The Initial Study and Draft Mitigated Negative Declaration (IS/MND) was circulated from March 17, 2022 to April 18, 2022 (SCH No. 2021110058).
  - c) The Board of Supervisors has considered the mitigated negative declaration together with the analysis and all public and agency comments received during the public review process and the whole record.
  - d) The mitigated negative declaration reflects the County's independent judgment and analysis. The Initial Study was thoroughly reviewed by County staff and considered as part of the Planning Commission deliberations and in the deliberations by the Board of Supervisors prior to action on the project.
  - e) The Initial Study/Mitigated Negative Declaration includes ten (10) mitigation measures that have been incorporated into a Mitigation Monitoring and Reporting Program which is being adopted as part of the project.
  - f) The project application was referred to tribes that were recommended per direction of the Native American Heritage Commission in compliance with AB52, and no tribe requested consultation. AB52 requirements were met and concluded.
  - g) The Planning and Building Department is the custodian of the documents and materials which constitute the record of proceedings upon which this decision is based. The materials in the record can be found at the Planning and Building Department.

**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 forest resources, air quality, geology and soils, energy, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, utilities and service systems, and wildfire.

- EVIDENCE:** a) There is no evidence of a significant adverse impact to any of the above referenced potential impact areas based on the project as proposed at this proposed location.
- b) Initial Study/Mitigated Negative Declaration dated March 10, 2022 and circulated for public review March 17, 2022 to April 18, 2022 (SCH No. 2021110058).

**4. FINDING: ENVIRONMENTAL IMPACTS MITIGATED TO LESS THAN SIGNIFICANT** – The Initial Study identified potentially significant impacts to biological resources, cultural and tribal cultural resources, and transportation, 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. If construction takes place during the nesting season for *Western Pond Turtles* preconstruction surveys by a qualified biologist will be conducted. If turtles are found in the construction area, they will be left in place (not handled) and construction activities will stop in the vicinity of the turtle until it leaves the area. If nests are found, a 200-foot no-work buffer will be established. Often CDFW considers specific local factors when making buffer size decisions and will be consulted if nests are found. Nest buffers will remain in place until turtles have hatched and left the nest. If work takes place outside of the nesting season, no surveys are necessary.
  - i. As an additional protection for western pond turtles, if the construction takes place during nesting season, the qualified biologist onsite will provide a short onsite training to construction employees that will be working in the area and may encounter

turtles after the preconstruction survey. The training will be successful if after the training, the employees will be able to (1) identify by sight, a Western Pond Turtle, (2) know the appropriate activity buffer to provide the turtle, and (3) know when to resume construction work in the area where the turtle was found.

- ii. The project will install permanent, all-season signs that describe wetland and pond setback areas as an Environmentally Sensitive Area (ESA). Signs will have a clear mandate for 'no entry.' Because the proposed six (6) acres of cultivation area will be fenced, the west side of the wetlands and pond will not be directly exposed to intrusion by humans. The east side of the pond and wetlands faces the proposed Multi-Use Building, a future construction site and hub of project activity; the eastern side of the wetland/pond is therefore more likely to see increased human and vehicle intrusion. On this eastern side, the project will install a minimum of six (6) signs that demarcate the riparian area setbacks. The signs will be installed prior to construction at which point they will be flagged to ensure that they are seen by construction crews. Signs will be placed along road borders and/or wetland setback boundaries in such a way that the potential for wetland damage is prevented. Alternatively, the project can choose to install split rail fencing (or an equivalent natural material barrier) in 6 to 10-foot lengths to deter human intrusion into the sensitive area. Sign or fence length locations will be identified by a qualified biologist prior to project construction. The qualified biologist will have the authority to require additional signs.
- v. To ensure that western pond turtles are not adversely impacted by vehicle traffic, the project will enforce a 10mph speed limit on the unnamed project access road. Before construction begins, the project will post at least two (2) 10mph speed limit signs: once to inform eastbound drivers entering the access road from Alderpoint Rd. and once to inform westbound drivers leaving the Multi-Use Building and returning to the Alderpoint Rd. intersection. The speed limit signs will be posted at a height of five (5) feet above the ground and clearly visible to oncoming traffic. The project speed limit will be enforced by the project proponents as dust reduction is critical for cannabis plant health. Humboldt County Planning and Building, Cannabis Services Division will ensure that the speed limits have been posted as described.
- v. To mitigate for potential impacts to migratory birds, 3 consecutive

preconstruction surveys for these species should take place no more than one week prior to the planting (and associated mowing and other disturbances) and construction planned for Phase I of the project. The survey area will include the six (6) acres where cultivation is proposed on Sherman Flat and the footprint of the propagation greenhouses, proposed rainwater catchment tank and pond locations and burned down barn (Multi-Use Building). The footprint of the disturbance areas and a 300-foot buffer will be surveyed. Should any nests be found, a 100-foot no-work buffer around the nest will be established and CDFW will be consulted for additional guidance, such as buffer modifications or the delaying of work until nestlings have fledged. Alternatively, if ground disturbance begins in August (or later in the season), these species will have completed breeding for the season and no surveys are necessary.

- vi. To ensure that the sensitive species found in the seasonal depression wetland in the southeast portion of the Study Area, *Lasthenia glaberrima* Herbaceous Alliance, and *Navarretia leucocephala ssp. bakeri*, are adequately protected, an additional 50-foot riparian setback is to be added to the standard 100-foot setback (SWRCB, 2019) around the seasonal depression wetland in the southeast portion of the Study Area (Figure 12). This buffer increase is recommended as a site-specific mitigation to better protect the documented sensitive natural community and special status plant species from potential project impacts.
  - ii. To ensure that impacts to *Danthonia californica* prairie are not significant or cumulatively significant, the project will implement a Sensitive Natural Community Mitigation and Monitoring Plan. The Plan, contained in Appendix "O" of the IS/MND, outlines the onsite location, procedures, and success criteria that will result in creation of 0.70 acres of high-quality California oatgrass prairie at a 1:1 ratio to mitigate for impacts to *Danthonia californica*.
- b) Initial Study/Mitigated Negative Declaration dated November 2021 and circulated from November 3, 2021 to December 3, 2021, was revised to include a mitigation measure reducing potentially significant or potentially cumulative significant impacts to *Danthonia californica* to a less than significant level, and dated March 10, 2022 and circulated to the State Clearinghouse for public review March 17, 2022 to April 18, 2022 (SCH No. 2021110058).

- c) **Cultural & Tribal Cultural Resources:** Potentially significant impacts in each of these two areas will be mitigated to a less than significant level with the implementation of the following mitigation measure for cultural and tribal cultural resources:
  - i. To ensure that the identified cultural resources are not adversely affected by the proposed project, the Mitigated Declaration includes mitigation measures to keep work and workers out of sensitive areas.:
  - ii. To ensure that accidentally discovered cultural resources or human remains are not adversely affected by the proposed project, all project employees involved in ground disturbing activities (project construction, tilling, etc.) will be trained in accidental discovery protocols.
- d) **Transportation:** Beginning in the second season of cultivation (Phase II), when the project intends to hire a number above eight (8) employees, the project will provide one or more passenger vans such that the daily number of employee-generated round trips is less than eight (8). The project proponent will provide to, the Humboldt County Planning and Building Department (HCPBD), Cannabis Services Division, by Dec 31<sup>st</sup> of the year, with evidence of van use (lease/purchase agreement, contract, or equivalent) beginning the second season of cultivation after permitting (Phase II) and annually until directed otherwise by the HCPBD.

## **FINDINGS FOR CONDITIONAL USE PERMIT**

### **7. 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 uses such as cannabis cultivation are a planned and anticipated use in the Agricultural Exclusive (AE) land use designation. The proposed project is entirely within the area of the subject parcel that is designated AE. The use of an agriculturally designated property for commercial agriculture is consistent with the Open Space Plan and Open Space Action Program.
  - b) 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 will comply with the

CMMLUO which requires all night lighting be completely shielded in compliance with International Dark Sky Standards.

- c) The project is consistent Conservation and Open Space Element Biological Resources as evidenced by compliance with the following polices and standards:
1. Streamside Management Areas (BR-P5, P6): There are mapped Streamside Management Areas (SMAs). All development associated with the project is located outside of SMAs.
  2. Biological Resource Maps (BRP11): A biological assessment was prepared did not find potential impacts to Marbled murrelet or Northern Spotted Owl (NSO). No special status species were found on-site, a mitigation measure has been applied for preconstruction surveys for special status amphibians.
  3. Agency Review (BR-P12): Consistent with this policy, the county has consulted with the California Department of Fish and Wildlife in the preparation of the Initial Study/Mitigated Negative Declaration and based on responses to CDFW requests, project modifications, mitigation measures and conditions of approval, the project is consistent with the protection of Biological Resources.
- d) The project is consistent with the Water Resources Element through compliance with the following goals and policies:
- i. Sustainable Management (WR-P1).
  - ii. Protection for Surface and Groundwater Uses (WR-P2).
  - iii. The project does not utilize diversion from a surface water source but will use confirmed non-diversionary well water and captured rainfall from a 2.2-million-gallon rainwater catchment pond and a one-million-gallon rainwater catchment tank.
  - iv. Project Design (WR-P12.) The project is not located in any SMA and thus will not detract from the function of rivers, streams, ponds, wetlands or their setback areas.
  - v. Rain Catchment Systems (WR-P20). Rainwater catchment is a component of the project, providing for approximately 3.2 million gallons of the annual water use.



**8. FINDING** The project is consistent with the Humboldt County Zoning Regulations and the Agriculture General (AG) Zone District.

**EVIDENCE:** a) The AG Zone is intended to be applied in areas in which agriculture is the desirable predominant use. General agricultural uses are principally permitted uses in the AG Zone. Section 314-7.2.

**9. FINDING** The proposed project is consistent with the requirements of the CMMLUO Provisions of the Zoning Ordinance.

**EVIDENCE:** a) The project parcel size is 1,221 acres and the proposal would allow 6.39 acres of outdoor cannabis cultivation. Section 314-55.4.8.2.1.1 allows one acre of cultivation for each one-hundred acre increment of available land in the AG Zone subject to a Conditional Use Permit.

b) The proposed cultivation site is flat with less than 15% slope.

c) The cultivation areas are setback more than 30 feet from all property lines.

d) The subject parcel has been determined to be a legal parcel under the provisions of the Subdivision Map Act.

e) Section 55.4.8.2.1 requires the use of prime soil and limits the use of prime soil on a parcel to 20%. The total area of prime soil on the parcel is 1,742,160 s.f. (40 acres); the project will cultivate a maximum of 278,160 s.f. (6.39 acres), or about 16% of available prime agricultural soil. The proposed project is within the limitation on use of prime soils.

f) The project will not utilize a diversionary water source.

g) The location of the cultivation complies with all setbacks required in Section 314-55.4.11.d. It is more than 30 feet from any property line and more than 600 feet from any school, church, public park, or tribal cultural resource.

**10. FINDING** The cultivation of 6.39 acres of cannabis and associated infrastructure including 10,000 square feet of propagation 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 project is served by a County Maintained Road which is developed to a Road Category 4 to the property and will be providing a vanpool service for employees. There will not be a decrease in the level of service of any roadway as a result of this project. The project has been designed to comply with all applicable standards of the Humboldt County Code which are intended to protect the public health, safety and welfare.
  - 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 sizes in the area.

**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**
- a) The parcel was not included in the housing inventory of Humboldt County's 2019 Housing Element.

**12. FINDING** Approval of this project is consistent with Humboldt County Board of Supervisors Resolution No. 18-43 which established a limit on the number of permits and acres which may be approved in each of the County's Planning Watersheds.

- EVIDENCE**
- a) The project site is located in the Lower Eel River Planning Watershed, which under Resolution 18-43 is limited to 336 permits and 116 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 83 permits and the total approved acres would be 40.58 acres of cultivation.

### **FINDINGS FOR APPEAL**

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

- EVIDENCE** a) **Appeal Issue 1:** The appellant's contention that the Project's roads do not satisfy the minimum standards of the County's SRA Fire Safety Regulations is not correct. Furthermore, the appellants assertion that the access to the property does not meet the Category 4 standard is a misunderstanding of the Category 4 road requirement.
- i. The access driveway the appellant is referring to is a private driveway only serving this property and is not required to meet Road Category 4 standards.
  - ii. A Road Evaluation/Access Assessment prepared by a registered civil engineer with Omsberg & Preston in February 2020 concluded that the private driveway is equivalent to and functions as a Road Category 4 road with adequate turnouts with regular maintenance.
  - iii. According to Humboldt County Department of Public Works, the access driveway is developed to an adequate functional capacity for the proposed use. The concept of functional capacity comes out of the fire safe standards to take into account the volume of the road relative to road capacity. A road with adequate functional capacity can accommodate the volume demands of the road and emergency response vehicles.
  - iv. The primary access to the site is from a paved, County maintained road (Alderpoint Road) that is developed to a Category 4 standard according to the County Department of Public Works.
  - v. Early project referrals and the draft IS/MND were circulated to CalFire who did not indicate concern for a lack of safe access to the project site.

**14. FINDING**

The appellant contends relying on gasoline generators for electricity in the project's initial phases filling the generators with the use of 5-gallon gas cans is a source of accidental wildfire ignition, and is an inappropriately scaled system for a large project without adequate safety measures mischaracterizes the approved project.

- EVIDENCE** a) The project will continue to use gas generators temporarily during Phases 1 and 2 (the first and second years) for lights and fans for propagation and processing only, and will transition to solar during Phase 3, the third year.
- a) Per conditions of approval (Nos. 6 and 26) the project will be required to meet all applicable fire codes including fire suppression infrastructure requirements, and training for employees per the Cultivation and Operations Plan, and a secondary containment area for fuel storage.

- b) CMMLUO §55.4.11 Performance Standards for all CMMLUO Cultivation and Processing Operations stipulates that all cannabis projects refrain from improper storage or use of any fuels and is regulated by the Humboldt County Environmental Health Division which inspects and enforces under the standards set by CalEPA.

**15. FINDING**

The appellant's contention that there are too many employees travelling to a remote site without adequate fire and medical safety is a mischaracterization of the project.

**EVIDENCE**

- a) The project incorporates a vanpool for employees to travel to the project, which will reduce the number of vehicles on the road and reduce the potential for accidents.
- b) As described in the CEQA IS/MND Public Services section, the project will be developed to the highest building standards (new buildings meet updated CA building and electrical codes) and use fire resistant materials (polycarbonate cladding and roofing per Ch. 7A requirements).
- c) The EIR that was certified for the Commercial Cannabis Land Use Ordinance, Draft EIR (Humboldt County, 2017) which was prepared subsequent to the CMMLUO Ordinance and its CEQA document, concludes that there is no evidence that permitting cannabis would increase fire protection needs and that, on the contrary, meeting California building codes with requisite electrical code inspections and safe storage of flammable materials is more likely to decrease the risk of fire and fire services.
- d) The project is sited in open meadow, not in a forested area.
- e) Humboldt County has a county wide Emergency Operations Plan (2015) as well as a Humboldt County Community Wildfire Protection Plan (CCWPP) (2019) and a "mini CCWPP" specifically for the Eel Planning Unit. For all emergencies, these plans encourage people working and living in the area to sign up for the county's mass notification system, Humboldt Alerts. It also encourages people to have a plan and evacuate early. For residents and employees in the project area, Alderpoint Road is the only likely evacuation route in case of an emergency. The project facilities are located directly south of Alderpoint Road. During construction, and throughout project operations, Alderpoint Road will remain an open and unimpeded route for daily traffic and in case of emergency evacuations. The project will not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.

**16. FINDING**

The Appellant's assertion that the project is in contravention of the Humboldt County's Climate Action Plan because transportation is a major source of greenhouse emissions and permitting the project in a remote area with a large number of employees and that the mitigation via a vanpool is unrealistic and unenforceable, and that personal safety is compromised in the event of an emergency if evacuation is dependent upon gathering up and transporting many employees in one vehicle is speculative and not supported by any facts.

- EVIDENCE**
- a) At this time, there is not an adopted Climate Action Plan for Humboldt County.
  - b) The use of a van pool to reduce vehicle trips is a best management practice to reduce Greenhouse Gas Emissions which would be consistent with a Climate Action Plan.
  - c) A large project which has the capacity to organize and require van pooling will generate less traffic than many small farms that have no ability to provide ridesharing.
  - d) Monitoring will take place during initial and subsequent annual inspections and as may be needed.
  - e) The employee vanpool is part of the proposal as well as a mitigation measure identified in the IS/MND, and is therefore now required and enforceable under the Project's Mitigation Monitoring and Reporting Program.
  - f) Use of the van in a potential emergency will be coordinated under the emergency evacuation plan described in the Cultivation and Operations Plan.

**17. FINDING**

The appellant makes a false claim that new cultivation causes new impacts, and that according to the February 2022 Watershed Map prepared for this project, the majority of cannabis projects approved in the county are for new cultivation operations, not existing operations; and that for new and expanded operations the cost (impacts on County Roads, danger from wildfire, air pollution and irreversible impacts to the environment) of business ventures should be borne by the new business and not forced upon the Humboldt County taxpayer and the natural environment.

- EVIDENCE**
- a) There has been an environmental analysis prepared for adoption of both the CMMLUO and CCLUO. This included a cumulative impact analysis of adding new cultivation to cultivation that already existed (baseline condition).
  - b) The watershed map for the Lower Eel River Planning Watershed does show 63 new applications approved and 45 applications for existing. This only represents the approved permits in this

watershed and not the entire County. This watershed includes significant alluvial farmland in the lower basin.

- c) There are currently 1,113 approved permits for cultivation throughout the County, of those 757 (68%) are pre-existing and there are 76 (7%) for both new and pre-existing. Over two thirds of the permits issued in the County to date are for existing cultivation.
- d) It is not clear what is meant by “*the cost (impacts on County Roads, danger from wildfire, air pollution and irreversible impacts to the environment) of business ventures should be borne by the business not forced upon the Humboldt County taxpayer and the natural environment.*” If improvements are needed and if mitigation is necessary to address environmental impacts, it is the responsibility of an applicant to pay for the cost of these. This project is conditioned accordingly.

**18. FINDING**

The appellant’s contention that the allowance of groundwater for the cultivation of two acres of new cannabis before adequate water storage is developed may cause significant impacts to any hydrologically connected surface waters, and that well tests prepared for this application did not test the Project's well in the dry period, as required by Humboldt County regulations, is not supported by the evidence.

**EVIDENCE**

- a) The well is going to be used for the first new phase of cultivation but after that the source of water will be rainwater catchment. (COA No. 23)
- b) The well production test that was performed was voluntary and was not required or requested by the County Planning & Building Department nor by the County Department of Environmental Health (DEH); DEH requires production tests for wells only when subdividing a parcel, when creating new and smaller parcels to ensure water supply for multiple users, which is not a factor with this project. The well production test would not need a certain duration of time nor to occur during any specific season (i.e. dry season).
- c) The site’s groundwater hydrology was assessed by a qualified geologist and determined that the well is unlikely to be hydrologically connected to surface waters.

**19. FINDING**

The appellant incorrectly states that this project would contribute to cumulative impacts to rare grassland prairie habitat, that when the CMMLUO was adopted, the stated intent was to discourage

cannabis cultivation in undeveloped remote areas and encourage cultivation on agricultural land close to existing infrastructure, and that this project is not consistent with the intent of the CMMLUO. These assertions are not supported by the evidence.

- EVIDENCE**
- a) Potential cumulative effects to special-status prairie grasses or habitat are fully mitigated through the mitigation plan that was prepared for the project in consultation with CDFW.
  - b) There will be no direct or cumulative impacts to special-status prairie grassland or related habitat.
  - c) The CMMLUO does not discourage cannabis cultivation in undeveloped remote areas, nor does it encourage cultivation on agricultural land close to existing infrastructure. The CMMLUO requires cultivation to be on prime farmland and provides criteria for how this is determined. This project complies with these provisions.
  - d) The CMMLUO does not include requirements that cannabis cultivation be located in close proximity to existing infrastructure. The CMMLUO allows for cannabis to be relocated to property in compliance with the provisions of the ordinance when the cultivation is on slopes exceeding 15% and when there is not a legal water source through the Retirement, Remediation, and Relocation (RRR) program. (CMMLUO section 55.4.14.) This is often referred to as getting the cannabis out of the hills.
  - e) The CMMLUO also allows for increased cultivation area when the property is over 320 acres, such as this site. Larger land holdings are typically in areas that are more remote.

**20. FINDING**

The Appellant incorrectly asserts that the project described in the IS/MND violates the County Ordinance, Fire Safe Regulations, and codified requirements for well testing during the dry season, to ensure adequate resources and mitigated impacts to surface waters.

- EVIDENCE**
- a) See Findings and Evidence 13-19.

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

1. Adopts the Initial Study and Mitigated Negative Declaration, State Clearinghouse No. 2021110058;
2. Denies the Appeal submitted by Robie Tenorio on behalf of Citizens for a Sustainable Humboldt and Northcoast Environmental Center;

3. Approves the six Conditional Use Permits for 6.39 acres of outdoor and light deprivation cannabis cultivation and associated infrastructure and support facilities, subject to the conditions of approval contained in Attachment 1 of this Resolution with revisions to conditions of approval Numbers 22 and 23; and
4. Adopts the Mitigation, Monitoring, and Reporting Program.

The foregoing Resolution is hereby passed and adopted by the Board of Supervisors on June 13, 2022, 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: June 13, 2022

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





**ATTACHMENT 1  
RECOMMENDED CONDITIONS OF APPROVAL**

**APPROVAL OF THE CONDITIONAL USE PERMIT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE SATISFIED BEFORE THE CANNABIS CULTIVATION CAN BEGIN OPERATION AND BEFORE ISSUANCE OF ANY BUILDING PERMITS.**

**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 project shall be developed and operated in accordance with the Operations Plan and project site development plans and all conditions of approval and mitigation measures.
3. The applicant is required to pay for permit processing on a time and material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The 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.
4. The Applicant is responsible for costs for post-approval review for determining project conformance with conditions. A deposit is collected to cover this staff review. Permit conformance with conditions must be demonstrated prior to release of building permit or initiation of use and at time of annual inspection. A conformance review deposit as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$750) shall be paid within 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.
5. The applicant shall submit a check to the Planning Division payable to the Humboldt County Clerk/Recorder in the amount of \$2,598.00. 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 \$2,598.00 fee payment requirement. In this instance, only a copy of the CDFW form and the \$50.00 handling fee is required.
6. 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.
7. The applicant shall secure permits for all structures related to the cannabis cultivation and other commercial cannabis activity, including existing and proposed greenhouses, water tanks over 5,000 gallons, existing and proposed structures associated with drying and storage or any activity with a nexus to cannabis, and any noise containment structures, as necessary. The plans submitted for building permit approval shall be consistent with the project description and the approved project site plan. A letter or similar communication from the

Planning and Building Department verifying that all structures related to the cannabis cultivation are permitted will satisfy this condition.

8. The applicant shall submit a grading, erosion, and sediment control plan s prepared by a qualified engineer. The plan shall identify the cubic yards of all grading that has been completed and any proposed. A letter or similar communication from the Building and Planning Department verifying that all grading related to the cannabis cultivation operation is permitted, or not needed, will satisfy this condition.
9. Where feasible, new utilities shall be underground or sited unobtrusively if above ground.
10. The applicant shall obtain from the Building Inspection Division any Building or other required permits prior to commencing construction activities or the approved use.
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. 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.
13. All driveways and private road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance). This condition shall be completed to the satisfaction of the Department of Public Works prior to commencing operations, final sign-off for a building permit, or Public Works approval for a business license.
14. Any existing or proposed non-county-maintained access roads that will serve as access for the proposed project that connect to a county-maintained road shall be improved to current standards for a commercial driveway. An encroachment permit shall be issued by the Department of Public Works prior to commencement of any work in the County maintained right of way. If the County road has a paved surface at the location of the access road, the access road shall be paved for a minimum width of 20 feet and a length of 50 feet where it intersects the County road.
15. All recommendations in the Road Evaluation Report, February 6, 2020, Omsberg & Preston, for non-county-maintained roads shall be constructed/implemented to the satisfaction of the Planning & Building Department prior to commencing operations, final sign-off for a building permit, or approval for a business license. A grading permit may be required. Check with the Building Division of the Planning and Building Department for any permit requirements. Requirements of the Road Evaluation are as follows:
  - a. The road grade at mileage post 1.6 and 2.2 are 15 and 16 percent, respectively. The grade at mileage post 2.2 is passable and will need grading this Spring.
  - b. The existing bridge near mileage post 2.5 show signs of age. The bridge deck has settled unevenly, and an inspection of the log abutments showed rotting. It is recommended to replace this bridge with another bridge or an adequate corrugated metal pipe arch.
  - c. Regular annual road maintenance including grading of the road, side ditch and lead off ditch, and spot rocking where needed.

16. The applicant shall execute and file with the Planning Division the statement titled, "Notice and Acknowledgment regarding Agricultural Activities in Humboldt County," ("Right to Farm" ordinance) as required by the HCC and available at the Planning Division.
17. No processing can be approved until an acceptable site suitability report can establish potential for onsite waste treatment system. This shall be provided to Humboldt County Department of Environmental Health (DEH).
18. An invoice, or equivalent documentation, is provided to the Humboldt County Department of Environmental Health (DEH) to confirm the continual use of portable toilets to serve the needs of cultivation staff prior to reissuance of annual permit.
19. All grading, building, plumbing, electrical and mechanical permits and/or Agricultural Exemption must be obtained (per Humboldt County Building Division).
20. The applicant shall maintain a weekly record of water used for cultivation. A copy of these records shall be stored and maintained at the cultivation site and kept separately or differentiated from any record of water use for domestic, fire protection, or other irrigation purposes. Irrigation records shall be kept onsite and made available at the applicant's annual inspection.
21. Noise generated from the operation, including fans and dehumidifiers, shall not exceed 50db at 100 feet from the generator as required by Section 314-55.4.12.6 Humboldt County Code.
22. The applicant may use generator power through Year 2025, after which all All electrical needs for the proposed new propagation facilities and proposed new drying and processing facilities shall be sourced exclusively from renewable energy systems. Prior to operation the applicant shall submit an energy budget detailing the power needs and capacity of the renewable energy system.
23. There will be no use of the well beyond Phase 1. The Project shall not proceed past Phase 1 of development until after the rainwater catchment pond is built and operational, and the additional 1-million-gallon rainwater storage tank completed within two years of full cultivation buildout.
24. The applicant shall submit copies of all documents filed with the State Water Resources Control Board. The applicant is required to adhere to and implement the requirements contained in the SWRCB's Cannabis Cultivation Policy, the General Order, the Site Management Plan, and the Notice of Applicability. A copy of the reporting form portion of the Mitigation and Reporting Program (MRP) shall be submitted annually to the Planning and Building Department concurrent with the submittal to the SWRCB.
25. **MM Bio 1:** If construction takes place during the nesting season for **Western Pond Turtles** preconstruction surveys by a qualified biologist will be conducted. If turtles are found in the construction area, they will be left in place (not handled) and construction activities will stop in the vicinity of the turtle until it leaves the area. If nests are found, a 200-foot no-work buffer will be established. Often CDFW considers specific local factors when making buffer size decisions and will be consulted if nests are found. Nest buffers will remain in place until turtles have hatched and left the nest. If work takes place outside of the nesting season, no surveys are necessary.
26. **MM Bio 2:** As an additional protection for western pond turtles, if the construction takes place during nesting season, the qualified biologist onsite will provide a short onsite training to

construction employees that will be working in the area and may encounter turtles after the preconstruction survey. The training will be successful if after the training, the employees will be able to (1) identify by sight, a Western Pond Turtle, (2) know the appropriate activity buffer to provide the turtle, and (3) know when to resume construction work in the area where the turtle was found.

27. **MM Bio 3:** The project will install permanent, all-season signs that describe wetland and pond setback areas as an Environmentally Sensitive Area (ESA). Signs will have a clear mandate for 'no entry.' Because the proposed six (6) acres of cultivation area will be fenced, the west side of the wetlands and pond will not be directly exposed to intrusion by humans. The east side of the pond and wetlands faces the proposed Multi-Use Building, a future construction site and hub of project activity; the eastern side of the wetland/pond is therefore more likely to see increased human and vehicle intrusion. On this eastern side, the project will install a minimum of six (6) signs that demarcate the riparian area setbacks. The signs will be installed prior to construction at which point they will be flagged to ensure that they are seen by construction crews. Signs will be placed along road borders and/or wetland setback boundaries in such a way that the potential for wetland damage is prevented. Alternatively, the project can choose to install split rail fencing (or an equivalent natural material barrier) in 6 to 10-foot lengths to deter human intrusion into the sensitive area. Sign or fence length locations will be identified by a qualified biologist prior to project construction. The qualified biologist will have the authority to require additional signs.
28. **MM Bio 4:** To ensure that western pond turtles are not adversely impacted by vehicle traffic, the project will enforce a 10mph speed limit on the unnamed project access road. Before construction begins, the project will post at least two (2) 10mph speed limit signs: once to inform eastbound drivers entering the access road from Alderpoint Rd. and once to inform westbound drivers leaving the Multi-Use Building and returning to the Alderpoint Rd. intersection. The speed limit signs will be posted at a height of five (5) feet above the ground and clearly visible to oncoming traffic. The project speed limit will be enforced by the project proponents as dust reduction is critical for cannabis plant health. Humboldt County Planning and Building, Cannabis Services Division will ensure that the speed limits have been posted as described.
29. **MM Bio 5:** To mitigate for potential impacts to migratory birds, 3 consecutive preconstruction surveys for these species should take place no more than one week prior to the planting (and associated mowing and other disturbances) and construction planned for Phase I of the project. The survey area will include the six (6) acres where cultivation is proposed on Sherman Flat and the footprint of the propagation greenhouses, proposed rainwater catchment tank and pond locations and burned down barn (Multi-Use Building). The footprint of the disturbance areas and a 300-foot buffer will be surveyed. Should any nests be found, a 100-foot no-work buffer around the nest will be established and CDFW will be consulted for additional direction going forward, such as buffer modifications or the delaying of work until nestlings have fledged. Alternatively, if ground disturbance begins in August (or later in the season), these species will have completed breeding for the season and no surveys are necessary.
30. **MM Bio 6:** To ensure that the sensitive species found in the seasonal depressional wetland in the southeast portion of the Study Area, *Lasthenia glaberrima* Herbaceous Alliance, and *Navarretia leucocephala* ssp. *bakeri*, are adequately protected, an additional 50-foot riparian setback is to be added to the standard 100-foot setback (SWRCB, 2019) around the seasonal depressional wetland in the southeast portion of the Study Area (Figure 12). This buffer increase is recommended as a site-specific mitigation to better protect the documented

sensitive natural community and special status plant species from potential project impacts.

31. **MM Bio 7:** To ensure that impacts to *Danthonia californica* prairie are not significant or cumulatively significant, the project will implement a Sensitive Natural Community Mitigation and Monitoring Plan. This plan, found in Appendix O\_ of the IS/MND outlines the onsite location and procedures and success criteria that will result in the creation of 0.70 acres (30,492 square feet) of high-quality California oatgrass prairie (30% or greater relative cover o *Danthonia californica*) to mitigate for impacts to high quality California oatgrass prairie at a 1:1 ratio.

32. **MM Cultural 1:** To ensure that the identified cultural resources are not adversely affected by the proposed project, the Archeology Report provides the following mitigation:

*Avoidance of Cultural Resources*

This Environmentally Sensitive Area (ESA) Action Plan provides guidance to ensure that Site 40-1 is not inadvertently affected by construction or cultivation activities. The ESA calls for no ground disturbing activities to occur within the limits of Site 40-1. No staging, equipment parking, or laydown of materials shall occur within the ESA. Within the ESA all vehicle traffic will be confined to within existing roadways.

The ESA shall consist of colored stakes placed every 30 feet along the perimeter of the recorded site limits to ensure that no ground disturbing activities associated with the project are allowed into this area without appropriate archaeological and Native American monitors. The ESA boundaries will allow traffic and equipment to move through the ESAs and will provide personnel with clearly defined limits where ground disturbance can take place. Ground disturbing construction activities, however, will be allowed to take place within an ESA only in the presence of archaeological and Native American monitors. The ESA stakes will be erected as a first order of work and prior to any construction/cultivation activities under the direction of a qualified professional archaeologist.

33. **MM Cultural 2:** To ensure that accidentally discovered cultural resources or human remains are not adversely affected by the proposed project, all project employees that will be breaking ground (project construction, tilling, etc.) will be appraised of the accidental discovery protocols, described below. The project proponent will deliver the protocols as an oral presentation or in writing. All employees will acknowledge that they have heard/read the protocols by signing their names. The project proponent will deliver the signed document to the Humboldt County Planning and Building Department. If previously unidentified cultural resources are encountered during project implementation, avoid altering the materials and their stratigraphic context. A qualified professional archaeologist should be contacted to evaluate the situation. Project personnel should not collect cultural resources. Prehistoric resources include, but are not limited to, chert or obsidian flakes, projectile points, mortars, pestles, and dark friable soil containing shell and bone dietary debris, heat-affected rock, or human burials. Historic resources include stone or abode foundations or walls; structures and remains with square nails; and refuse deposits or bottle dumps, often located in old wells or privies.

*Inadvertent Discovery of Human Remains*

If human remains are discovered during project construction, work will stop at the discovery location, within 20 meters (66 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.

34. **MM Transportation 1:** Beginning in the second season of cultivation (Phase II), when the project intends to hire a number above eight (8) employees, the project will provide one or more passenger vans such that the daily number of employee-generated round trips is less than eight (8). The project proponent will provide to, the Humboldt County Planning and Building Department (HCPBD), Cannabis Services Division, by Dec 31<sup>st</sup> of the year, with evidence of van use (lease/purchase agreement, contract, or equivalent) beginning the second season of cultivation after permitting (Phase II) and annually until directed otherwise by the HCPBD.

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

1. The combination of background, generator, and greenhouse fan or other operational equipment created noise must not result in the harassment of Northern Spotted Owl species as required to meet the performance standards for noise set by Department Policy Statement No. 16-005 clarifying Commercial Medical Marijuana Land Use Ordinance (CMMLUO) Section 55.4.11 (o) requirements. The combined noise levels measured at 100 feet or the edge of habitat, whichever is closer, shall be at or below 50 decibels. Conformance will be evaluated using current auditory disturbance guidance prepared by the U.S. Fish and Wildlife Service and further consultation where necessary. A building permit shall be obtained should any structures be necessary for noise attenuation.
2. Should the Humboldt County Planning Division receive complaints that the lighting or noise is not complying with the standards, within ten (10) working days of receiving written notification that a complaint has been filed, the applicant shall submit written verification that the lights' shielding and alignment, and noise levels have been repaired, inspected, and corrected as necessary.
3. Ensure any back-up generators are located on stable surfaces with a minimum 200 feet buffer from all waterways measured horizontally from the outer edge of the riparian drip zone.
4. Prohibition on use of synthetic netting. To minimize the risk of wildlife entrapment, Permittee shall not use any erosion control and/or cultivation materials that contain synthetic (e.g., plastic or nylon) netting, including photo- or biodegradable plastic netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves.
5. All refuse shall be contained in wildlife proof storage containers, at all times, and disposed of at an authorized waste management facility.
6. Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and be allowed to leave the work site unharmed.
7. The use of anticoagulant rodenticide is prohibited.
8. The operator shall provide information to all employees about the potential health impacts of cannabis use on children. Information shall be provided by posting the brochures from the

Department of Health and Human Services titled "Cannabis Palm Card" and "Cannabis Rack Card." This information shall also be provided to all employees as part of the employee orientation.

9. 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. If offsite processing is chosen to be the preferred method of processing, this permit shall be modified to identify the offsite licensed facility.
10. 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.
11. If operating pursuant to a written approved compliance agreement, permittee shall abate or cure violations at the earliest feasible date, but in no event no more than two (2) years from the date of issuance of a provisional clearance or permit. Permittee shall provide plans for curing such violations to the Planning and Building Department within one (1) year of issuance of the provisional clearance or permit. If good faith effort toward compliance can be shown within the two years following the issuance of the provisional clearance or permit, the Department may, at the discretion of the Director, provide for extensions of the provisional permit to allow additional time to meet the outstanding requirements.
12. 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.
13. Confinement of the area of cannabis cultivation, processing, manufacture, or distribution to the locations depicted on the approved site plan. The commercial cannabis activity shall be set back at least 30 feet from any property line, and 600 feet from any school, school bus stop, church or other place of religious worship, or tribal cultural resources, except where a reduction to this setback has been approved pursuant to Section 55.4.11(d).
14. Maintain enrollment in Tier 1, 2, or 3, certification with North Coast Regional Water Quality Control Board (RWQCB) Order No. R1-2015-0023, if applicable, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.
15. Comply with the terms of any applicable Lake and Stream Alteration (1600 or 1602) Permit obtained from the California Department of Fish and Wildlife (CDFW).
16. Comply with the terms of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (Cal Fire), if applicable.
17. Consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday through Friday, 9:00 a.m. to 5:00 p.m., excluding holidays).
18. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.



19. Pay all applicable application, review for conformance with conditions and annual inspection fees.
20. Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, including the County of Humboldt's Certified Unified Program Agency (CUPA) program, and in such a way that no spillage occurs.
21. The master log books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
22. Pay all applicable taxes as required by the Humboldt County Commercial Marijuana Cultivation Tax Ordinance (Humboldt County Code Section 719-1 et seq.).

#### Performance Standards for Cultivation and Processing Operations

23. Pursuant to 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."
24. Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include federal and state wage and hour laws, Cal/OSHA, OSHA, the California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).
25. Cultivators engaged in processing shall comply with the following Processing Practices:
  - a. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
  - b. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
  - c. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
  - d. Employees must wash hands sufficiently when handling cannabis or use gloves.
26. All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
  - a. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
    - (1) Emergency action response planning as necessary;
    - (2) Employee accident reporting and investigation policies;
    - (3) Fire prevention;
    - (4) Hazard communication policies, including maintenance of material safety data sheets (MSDS);
    - (5) Materials handling policies;
    - (6) Job hazard analyses; and
    - (7) Personal protective equipment policies, including respiratory protection.
  - b. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
    - (1) Operation manager contacts;

- (2) Emergency responder contacts; and
  - (3) Poison control contacts.
  - c. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.
  - d. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.
27. All cultivators shall comply with the approved processing plan as to the following:
- a. Processing practices
  - b. Location where processing will occur
  - c. Number of employees, if any
  - d. Employee Safety Practices
  - e. Toilet and handwashing facilities
  - f. Plumbing and/or septic system and whether or not the system is capable of handling increased usage
  - g. Drinking water for employees
  - h. Plan to minimize impact from increased road use resulting from processing
  - i. On-site housing, if any
28. Term of Commercial Cannabis Activity Special Permit. Any Commercial Cannabis Cultivation SP issued pursuant to the CMMLUO shall expire one (1) year after date of issuance, and on the anniversary date of such issuance each year thereafter, unless an annual compliance inspection has been conducted and the permittees and the permitted site have been found to comply with all conditions of approval.
29. If the inspector or other County official determines that the permittees or site do not comply with the conditions of approval, the inspector shall serve the permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the noncompliance, or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a reinspection to determine whether or not the permit holder has cured all issues of noncompliance. Failure to request reinspection or to cure any items of noncompliance shall terminate the Special Permit, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed pursuant to Section 55.4.13.
30. Permit Renewals to Comply with Updated Laws and Regulations. Permit renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that new standards are met.
31. Acknowledgements to Remain in Full Force and Effect. Permittee acknowledges that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this section in the event that environmental conditions, such as a sustained drought or low flows in the watershed in which the cultivation area is located, will not support diversions for irrigation.
32. Transfers. Transfer of any leases or permits approved by this project is subject to the review and approval of the Planning Director for conformance with CMMLUO eligibility requirements and

agreement to permit terms and acknowledgments. The fee for required permit transfer review shall accompany the request. The request shall include the following information:

- a. Identifying information for the new owner(s) and management as required in an initial permit application;
- b. A written acknowledgment by the new owner in accordance as required for the initial permit application;
- c. The specific date on which the transfer is to occur;
- d. Acknowledgement of full responsibility for complying with the existing permit; and
- e. Execution of an Affidavit of Non-diversion of Medical Cannabis.

33. Inspections. The permit holder and subject property owner are to permit the County or representative(s) or designee(s) to make inspections at any reasonable time deemed necessary to assure that the activities being performed under the authority of this permit are in accordance with the terms and conditions prescribed herein.

**Informational Notes:**

1. If upon inspection for the initial application, violations of any building or other health, safety, or other state or county statute, ordinance, or regulation are discovered, the Planning and Building Department may issue a provisional clearance or permit with a written approved Compliance Agreement. By signing the agreement, the permittee agrees to abate or cure the violations at the earliest opportunity but in no event more than two (2) years after the date of issuance of the provisional clearance or permit. Plans for curing the violations shall be submitted to the Planning and Building Department by the permittee within one (1) year of the issuance of the provisional certificate or permit. The terms of the compliance agreement may be appealed pursuant to Section 314-55.4.13 of the CMMLUO.
2. This provisional permit approval shall expire and become null and void at the expiration of one (1) year after all appeal periods have lapsed (see "Effective Date"), except where the Compliance Agreement per Condition of Approval has been executed and the corrective actions pursuant to the agreement are being undertaken. Once building permits have been secured and/or the use initiated pursuant to the terms of the agreement, the use is subject to the Permit Duration and Renewal provisions set forth in the Ongoing Requirements/Development Restrictions, above.