

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, CONSIDERING THE ADDENDUM TO A PREVIOUSLY ADOPTED MITIGATIVE NEGATIVE DECLARATION PREPARED FOR THE PROJECT PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, APPROVING THE APPEAL FOR RECORD NO. PLN-2022-17820 AND APPROVING THE LOST COAST ELIXIRS, LLC CONDITIONAL USE PERMIT RECORD NO. PLN-11247-CUP.

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, submitted an application and evidence in support of approving a Conditional Use Permit for the continued operation of an existing 16,144 square feet (sq. ft.) of outdoor and 7,710 sq. ft. of mixed-light commercial cannabis cultivation, and appurtenant nursery and drying activities; and

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

WHEREAS, on June 16, 2022, the Planning Commission adopted a Resolution which did the following:

1. Found the project exempt from environmental review pursuant to Section 15270 of the CEQA Guidelines; and
2. Found that the project would be detrimental to the public health, safety and welfare or materially injurious to properties or improvements in the vicinity because the applicant is a repeat offender of violations with the County, CDFW, and CalCannabis, and because complaints have been received regarding trucking of water and light pollution occurring on-site; and
3. Denied the Conditional Use Permit under record No. PLN-11247-CUP.

WHEREAS, Lost Coast Elixirs LLC, (“Appellant”) on June 23, 2022, 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 opened a duly-noticed public hearing, *de-novo*, on August 18, 2022; and

WHEREAS, the Board of Supervisors closed the public hearing on August 18, 2022; and adopted the motion to approve the appeal, and to approve the Conditional Use Permit with subject to the conditions of approval.

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

1. FINDING: **Project Description:** The application is a Conditional Use Permit for an existing operation with 16,144 sf of outdoor and 7,710 sf of mixed-light cannabis cultivation with 2,746 sf of ancillary propagation. Water for irrigation is sourced from a permitted well (Permit #20/21-0663) and the applicant has obtained a well assessment supporting the continued use of the well for irrigation. The applicant plans to add rain catchment features to collect up to 20,000 gallons per year. Anticipated annual water usage is 383,472 gallons (14.4 gal/sf/yr). There is a total of 411,500 gallons of existing hard tank water storage on-site designated for irrigation. Power is currently sourced by two (2) diesel generators housed within secondary containment, and the project will be conditioned to transition to 100% renewable energy source by 2026.

EVIDENCE: a) Project File: PLN-11247-CUP

2. FINDING: **CEQA.** The requirements of the California Environmental Quality Act have been complied with. The Humboldt County Planning Commission has considered the Addendum to the Mitigated Negative Declaration (MND) prepared for the Commercial Medical Marijuana Land Use Ordinance (CMMLUO) adopted by the Humboldt County Board of Supervisors on January 26, 2016.

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 MND. 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) The project is located within the Headwaters Mattole River HUC-12 subwatershed, within the Cape Mendocino Planning Watershed, which is considered impacted and designated as a refuge subwatershed.

d) Lost Coast Elixirs received an Interim Permit for 22,514 sf of pre-existing outdoor and 5,551 sf of pre-existing mixed-light cannabis cultivation, a total of 28,065 sf of cultivation area. The application for 16,144 sf of outdoor, 7,710 sf of mixed-light, and 2,746 sf of ancillary propagation (a total of 26,600 sf) is overall less cultivation than what was found to be pre-existing.

- e) The applicant states that timers have been installed on the generators within the last year, which allows for a more efficient use of the generators to power lights within the mixed-light greenhouses, and reduces the amount of fuel required to power the generators by 40%. The increase in mixed-light area is 39% more than what was pre-existing, and with the added timers to the generators, the project will not result in an increase of fuel consumption.
- f) The applicant provided calculations of the change in annual water used for the project, and with overall less cultivation area on-site from transition, it is anticipated that a reduction of approximately 44,436 gallons of water used annually for the project would result as a result of the combination of additional mixed-light and substantially less overall cultivation area.
- g) The site was historically enrolled in the North Coast Regional Water Quality Control Board (NCRWQCB) Order No. R-1-2015-0023, under WDID 1B16459CHUM. The applicant obtained a Water Resource Protection Plan for the site, prepared by Timberland Resource Consultants, dated September 28, 2016, and the applicant is conditioned to adhere to the corrective actions and the recommended ongoing monitoring recommended in the WRPP.
- h) A Notice of Applicability letter showing enrollment as a Tier 2 Low Risk site with the State Water Board's General Order No. WQ 2019-001-DWQ, under WDID 1_12CC435435. The applicant is conditioned to provide a Site Management Plan to show site requirements in order to meet compliance with the State Water Board General Order No. WQ 2019-001-DWQ.
- i) The applicant obtained a Streambed Alteration Agreement (SAA 1600-2016-0436-R1) with CDFW, signed by the applicant on June 23, 2017. The SAA included four (4) encroachments for the instream work required for two (2) diversions for domestic uses, and two (2) remediation sites. A Stormwater Management Plan was prepared by Timberland Resource Consultants, dated July 14, 2017, and was received by the applicant showing compliance with item 2.14 and 2.15 in SAA 1600-2016-0436-R1.
- j) A Well Assessment Report (WAR) was obtained for well Permit# 20/21-0663 was prepared by licensed Geologist David Lindberg with Lindberg Geologic Consulting, dated April 12, 2022. The WAR states that based on a four-hour air lift pump test, the total drawdown of the well was reported to be zero (0) feet. The WAR mentions that the Well Completion Report for the well estimates a yield of 12 gallons per minute (gpm), but that this is not representative of the well's long-term yield and the driller recommended that the well be pumped at six gallons per minute (6 gpm). The applicant shall adhere to the recommendation of pumping the well at 6 gallons per minute. The WAR also states that the deeper "Rock" zone is the water-producing unit, and is considered hydrologically isolated from and not connected to any other aquifer in the surrounding, approximates that 6.4 million gallons of water per year may be expected to recharge the local aquifer, and concludes that based on professional experience, observations, and research, the well

has a negligible likelihood of being hydrologically connected to nearby surface waters or wells in any manner that might affect adjacent wetlands and or surface waters in the vicinity of the project.

- k) The project was referred to CalFire on December 28, 2021, and comments were received on January 12, 2021. Comments from CalFire stated that it appears that trees were removed between 2015 and 2018, a CalFire document should have been obtained prior to removing the trees, and that a Registered Professional Forester (RPF) may be required to advise the landowner of necessary permits from CalFire. The applicant did obtain a Timber Conversion Report (TCR) prepared by RPF Chris Carroll with Timberland Resource Consultants, dated January 24, 2022. The TCR was sent to CalFire for review on April 15, 2021, and the agency replied on April 19, 2022, stating that they had no comments at that time. The TCR states that a total of 1.94 acres of timberland was converted on-site, and approximately 1.01 acres was removed post-2016. The applicant is conditioned to restock the 1.01 acres of post-2016 timberland converted, shall obtain a Restocking Plan prepared by an RPF, submit to the Planning Division, and shall adhere to the recommendations within the Restocking Plan.
- l) The project is located within the Bear River Band and Sinkyone tribal aboriginal territories. The project was referred to the Bear River Band THPO, the Sinkyone tribe, and the Northwest Information Center (NWIC) on September 5, 2017. The NWIC responded on November 22, 2017, with a recommendation that the lead agency contact the local Native American tribe(s) regarding tradition, cultural, and religious heritage values. A response was received from the Bear River Band THPO on June 18, 2019, requesting the applicant adhere to Inadvertent Discovery Protocols as a condition of approval.
- m) The project site is accessed from non-county maintained Eubanks Road, from county maintained Ettersburg Honeydew Road, from county maintained Briceland-Thorne Road. The applicant submitted a Road Evaluation Report (RER) form (with a route map & photos), dated November 22, 2019. The RER submitted by the applicant for the 2 miles of Eubanks Road to the project site, self-certified that the road is developed to the equivalent of a Category 4 road standard. The application was referred to the Department of Public Works on March 2, 2018, and comments were received by the agency on March 2, 2018. The applicant shall adhere to the recommendations of Public Works.

FINDINGS FOR CONDITIONAL USE 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) The proposed project does not have a combining zone that would be considered open space, but will incorporate relocating tanks outside of the streamside management areas on-site. The relocation of water tanks outside of streamside management areas 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 U zone in which the site is located.

EVIDENCE a) The Unclassified or U Zone is intended to be applied to areas of the County in which general agriculture uses is a desirable use.

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

c) Humboldt County Code section 314-55.4.8.2.2 allows cultivation of up to 43,560 square feet of existing outdoor cannabis and up to 22,000 square feet of existing mixed-light cannabis on a parcel zoned U over 1 acres subject to approval of a Conditional Use Permit and a determination that the cultivation was in existence prior to January 1, 2016. The application for 16,144 square feet of outdoor and 7,710 square feet of mixed-light cultivation on a 40-acre parcel is consistent with this and with the cultivation area verification prepared by the County.

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

EVIDENCE a) The CMMLUO allows existing cannabis cultivation to be permitted in areas zoned U (HCC 314-55.4.8.2.2).

b) The subject parcel was legally created through deed conveyance, a portion of a patent parcel of approximately 40 acres, on May 26, 1971.

c) The project will obtain water from rain catchment collected off of roof tops, and from a permitted well.

d) The project site is accessed from non-county maintained Eubanks Road, from county maintained Ettersburg Honeydew Road, from county maintained Briceland-Thorne Road. The applicant submitted a Road Evaluation Report (RER) form (with a route map & photos), dated November 22, 2019. The RER submitted by the applicant for the 2 miles of Eubanks Road to the project site, self-certified that the road is developed to the equivalent of a Category 4 road standard. The application was referred to the Department of Public Works on March 2, 2018, and comments were received by the agency on March 2, 2018. The applicant shall adhere to the recommendations of Public Works.

e) The project was referred to CalFire on December 28, 2021, and comments were received on January 12, 2021. Comments from CalFire stated that it appears that trees were removed between 2015 and 2018, a CalFire document should have been obtained prior to removing the trees, and that a Registered

Professional Forester (RPF) may be required to advise the landowner of necessary permits from CalFire. The applicant did obtain a Timber Conversion Report (TCR) prepared by RPF Chris Carroll with Timberland Resource Consultants, dated January 24, 2022. The TCR was sent to CalFire for review on April 15, 2021, and the agency replied on April 19, 2022, stating that they had no comments at that time. The TCR states that a total of 1.94 acres of timberland was converted on-site, and approximately 1.01 acres was removed post-2016. The applicant is conditioned to restock the 1.01 acres of post-2016 timberland converted, shall obtain a Restocking Plan prepared by an RPF, submit to the Planning Division, and shall adhere to the recommendations within the Restocking Plan.

No further timber conversion is proposed on-site.

- f) 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, school bus stop, church or other place of religious worship, public park, or Tribal Cultural Resource.

6. FINDING

The cultivation of 23,854 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 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.
- b) Irrigation water will come from rain catchment from rooftops of three existing structures connected to water tanks, and one permitted well.
- c) The project site is accessed from non-county maintained Eubanks Road, from county maintained Ettersburg Honeydew Road, from county maintained Briceland-Thorne Road. The applicant submitted a Road Evaluation Report (RER) form (with a route map & photos), dated November 22, 2019. The RER submitted by the applicant for the 2 miles of Eubanks Road to the project site, self-certified that the road is developed to the equivalent of a Category 4 road standard. The application was referred to the Department of Public Works on March 2, 2018, and comments were received by the agency on March 2, 2018. The applicant shall adhere to the recommendations of Public Works.

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) The parcel was not included in the housing inventory of Humboldt County's 2019 Housing Element but does have 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.

8. 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 is located in the Cape Mendocino Planning Watershed, which under Resolution 18-43 is limited to 650 permits and 223 acres of cultivation. With the approval of this project the total approved permits in this Planning Watershed would be 217 permits and the total approved acres would be 77.59 acres of cultivation.

APPEAL

Appeal Issue 1

The appellant states in the appeal that one of the primary reasons cited by the Planning Commission for denial was the November 30, 2021 inspection report and the history of ongoing violations of County ordinance, CDFW and CalCannabis regulations but that the November 30, 2021 inspection report was never shared or discussed with them and that there are no current violations on file from any agency.

8. FINDING EVIDENCE

- a) The grounds for appeal are adequate to warrant granting the appeal. The primary basis for the public comments and which appear to have led to the Planning Commission's decision was the November 30, 2021 inspection report that documented a number of violations identified during the November 30, 2021 inspection. This inspection report was included as part of the Planning Commission staff report and relied on very heavily in the public comments opposing the project and the planning Commission's discussion regarding repeated violations by the applicant. County staff presenting this project at the Planning Commission had assumed that this inspection report had been shared with the applicant shortly after the inspection had occurred however after review of all County records it was determined that the inspection planner had not sent this inspection report to the applicant. The County is in agreement that it was unfair to the applicant for the Planning Commission to rely on an inspection report that the applicant had never before seen or had an opportunity to respond to. Further, one of the primary points of discussion at the Planning Commission hearing was that there were repeated violations because applicant had been notified in December to remove the string lights from the outdoor cultivation and that there were still string lights in outdoor cultivation areas found during the November 30, 2021 inspection. Upon further review, no written notification to remove the string lights was sent to the applicant after the December 2020 inspection. Additionally, no written notification to remove the lights was sent to the applicant after the November 2021 inspection. During a meeting with the Planning Director in January of 2022 the applicant was verbally advised to remove the lighting and did in fact send photo documentation of the removal of the lights the following day.
- b) County staff is unaware of any current CalCannabis, CDFW or Water Board violations that are applicable to the site. During a site inspection by County staff on July 26, 2022 the site was found to be in full compliance and all issues identified in the November 2021 inspection had been addressed.

Appeal Issues 2-4

The appellant states that there is no basis in the CMMLUO to deny the application based on the lack of rainwater catchment, the use of a groundwater well as a water source and the condition of the access road.

**9. FINDING
EVIDENCE**

- a) The grounds for appeal are irrelevant to the appeal.
The use of the well, the potential for rainwater catchment, and the condition of the access road were not cited by the Planning Commission as the reason for denial of the application.

NOW, THEREFORE, based on the above findings and evidence, the Humboldt County Board of Supervisors does hereby:

- a. Finds that the Board of Supervisors has considered the addendum to the Mitigative Negative Declaration for the Commercial Medical Marijuana Land Use Ordinance that has been prepared for the Lost Coast Elixirs, LLC project and found the project consistent with the adopted MND pursuant to Section 15164 of the State CEQA Guidelines.
- b. Finds that the project is consistent with the Humboldt County General Plan and the Humboldt County Zoning Ordinance.
- c. Approves the Appeal filed by Lost Coast Elixirs, LLC.
- d. Approves the Conditional Use Permit for Lost Coast Elixirs LLC subject to the recommended conditions of approval in Attachment 1.

The foregoing Resolution is hereby passed and adopted by the Board of Supervisors on August 18, 2022, by the following vote:

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

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

Virginia Bass
_____, 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: _____, 2022

By _____ Deputy

EXHIBIT A

RECOMMENDED CONDITIONS OF APPROVAL

APPROVAL OF THE CONDITIONAL USE PERMIT AND SPECIAL PERMITS ARE CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS WHICH MUST BE SATISFIED BEFORE THE PROVISIONAL CANNABIS CULTIVATION PERMIT CAN BE FINALIZED.

A. General Conditions

1. The applicant is responsible for obtaining all necessary County and State permits and licenses, and for meeting all requirements set forth by other regulatory agencies.
2. The applicant is required to pay for permit processing on a time and material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Planning and Building Department will provide a bill to the applicant after the decision. Any and all outstanding planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
3. The Applicant is responsible for costs for post-approval review for determining project conformance with conditions. A deposit is collected to cover this staff review. Permit conformance with conditions must be demonstrated prior to release of building permit or initiation of use and at time of annual inspection. A conformance review deposit as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors (currently \$750) shall be paid within sixty (60) days of the effective date of the permit or upon filing of the Compliance Agreement (where applicable), whichever occurs first. Payment shall be made to the Humboldt County Planning Division, 3015 "H" Street, Eureka.
4. A Notice of Determination (NOD) will be prepared and filed with the County Clerk for this project in accordance with the State CEQA Guidelines. The Department will file the NOD and will charge this cost to the project.
5. The applicant shall provide an updated Site Plan to the Planning Division within 30 days of approval to designate a minimum of 2,500 gallons of water storage for fire suppression only, to show new water lines separating all commercial irrigation water sources and storage from domestic sources and storage, and to show the new location for water tanks within the streamside management area to be located outside of the streamside management areas.
6. Within 60 days of the effective date of permit approval, the applicant shall execute a Compliance Agreement with the Humboldt County Planning and Building Department detailing all necessary permits and infrastructure improvements described under Conditions of Approval #7 through #23. The agreement shall provide a timeline for completing all outstanding items. All activities detailed under the agreement must be completed to the

satisfaction of the Planning and Building Department before the permit may be finalized and no longer considered provisional.

7. The applicant shall secure permits for all structures related to the cannabis cultivation and other commercial cannabis activity, including but not limited to: twenty-seven (27) full-sun outdoor hoop houses, five (5) light-deprivation outdoor greenhouses, four (4) mixed-light greenhouses, one (1) 30' x 60' Garage and Storage Building (used for propagation areas to cut clones, and nutrient storage), one (1) 8' x 20' Storage Container to house hazardous materials, one (1) 2-Story Building used for drying and packaging, and three (3) Generator Sheds. Generator sheds must have a concrete floor designed to incorporate containment for fuel leaks and spills which must be located on a stable surface with a minimum 200-foot buffer from Class I and Class II streams. 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 Building Division 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 for any previous grading done in excess of 50 cubic yards. The plan shall identify the cubic yards of all grading that has been completed. A letter or similar communication from the Building Division verifying that all grading related to the cannabis cultivation operation are permitted, or not needed, will satisfy this condition.
9. The applicant shall permit the on-site solar system with the Building Division.
10. The applicant is conditioned to transition to 100% renewable energy source supplied for the project by the 2026 cultivation season, and after transition shall only be allowed to keep generators on-site for emergency backup purposes only
11. The applicant shall provide an Energy Plan to the Planning Division to show how all power required by the project will be sourced by 100% renewable energy sources by 2026, and shall submit an updated Site Plan to show one (1) emergency backup generator on-site. The energy plan shall be submitted within two (2) years of the effective date of permit approval.
12. The applicant has identified four (4) existing Fire Nozzles on the Site Plan, and the applicant shall obtain written confirmation from the Telegraph Ridge Fire Protection District stating that this satisfies their recommendation for a Fire standpipe, or shall update the Site Plan to show a proposed Fire standpipe location in and shall install in coordination with the TRFPD.
13. Per the Humboldt County Fire Safe Regulations the applicant is required and conditioned to have a maintenance and open space easement recorded with the adjoining lot (APN: 220-081-015).
14. The applicant shall adhere to the following recommendations in the Timber Conversion Report: the removal dead, dying, and diseased tanoak trees infested with Sudden Oak Death in the areas shown on the attached photographs, and to treat material per the attachment titled A Homeowners Guide to Sudden Oak Death.

15. The applicant is conditioned to restock the 1.01 acres of post-2016 timberland converted, shall obtain a Restocking Plan prepared by an RPF and submit to the Planning Division, and shall adhere to the recommendations within the Restocking Plan.
16. The applicant shall meter water diverted and stored for domestic purposes separately from irrigation.
17. The applicant shall not have shared water lines used for cannabis irrigation and domestic uses, and shall have water lines separated for domestic purposes from cannabis purposes.
18. The Water Resource Protection Plan listed Identified Sites Requiring Remediation in a table on page 3. The table lists corrective actions, and the applicant shall adhere to the corrective actions recommended in the WRPP.
19. The applicant shall obtain a Site Management Plan for the project site, submit the SMP to the Planning Division, and shall adhere to the remedial actions recommendations within the report.
20. The applicant shall submit the Water Management Plan and the Major Amendment to the Streambed Alteration Agreement to the Planning Division to show compliance with items 7 and 9 of the Notice of Violation letter received by CDFW. The applicant shall also complete the work as described in the amended SAA, and shall adhere to the conditions outlined in the amended SAA.
21. The applicant shall complete the following recommended conditions of approval by Public Works: all driveways and private road intersections onto the County Road shall be maintained in accordance with County Code Section 341-1 (Sight Visibility Ordinance), and 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.
22. The applicant shall be compliant with the County of Humboldt's Certified Unified Program Agency (CUPA) requirements regarding hazardous materials. A written verification of compliance shall be required before any provisional permits may be finalized. Ongoing proof of compliance with this condition shall be required at each annual inspection in order to keep the permit valid.
23. 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.

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

1. No processing can be approved until an acceptable site suitability report can establish potential for onsite wastewater treatment system, and the applicant shall provide an invoice or equivalent

documentation to confirm the continual use of portable toilets to serve the needs of cultivation staff prior to reissuance of an annual permit.

2. The applicant shall have documentation kept on-site to show the use of an off-site licensed processing facility to be furnished during an annual inspection.
3. As part of employee orientation, all employees shall undergo fire safe training, and the applicant shall provide proof of employee safe trainings upon request during an annual inspection.
4. The applicant shall monitor the amount of water collected from rain catchment per year, and shall keep logs on-site to be furnished during an annual inspection.
5. The applicant shall adhere to the recommendation of pumping the well at 6 gallons per minute and shall not go over this rate for the life of the project.
6. The applicant shall keep daily logs of water pumped from the well (Permit #20/21-0663) to storage, and the logs shall be available to be furnished during an annual inspection.
7. The applicant shall not utilize the three (3) wells designated for domestic uses (Permit #16/17-0228, #16/17-0327, & #16/17-0329) or the domestic spring diversion, for cannabis irrigation.
8. The Water Resource Protection Plan lists ongoing monitoring recommended for the site, and the applicant shall adhere to the recommended ongoing monitoring of the WRPP.
9. The applicant shall obtain a Site Management Plan for the project site, and shall adhere to the ongoing monitoring recommendations within the report.
10. The applicant shall complete the work as described in the amended Streambed Alteration Agreement, and shall adhere to the conditions outlined in the amended SAA.
11. 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 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 United State Fish and Wildlife Service, and further consultation where necessary. A building permit shall be obtained should any structures be necessary for noise attenuation.
12. All artificial lighting shall be fully contained within mixed-light and propagation structures such that no light escapes (e.g., through blackout tarps). Structures shall be enclosed between 30 minutes prior to sunset and 30 minutes after sunrise to prevent disruption to crepuscular wildlife. Security lighting shall be motion activated and comply with the International Dark-Sky Association standards and Fixture Seal of Approval Program; see: <https://www.darksky.org/our-work/lighting/lighting-for-citizens/lighting-basics/>. Standards

include but are not limited to the following, 1) light shall be shielded and downward facing, 2) shall consist of Low Pressure Sodium (LPS) light or low spectrum Light Emitting Diodes (LED) with a color temperature of 3000 kelvins or less and 3) only placed where needed.

13. Should the Humboldt County Planning Division receive complaints that the lighting or noise is not complying with the standards listed above in items B.1. and B.2., 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.
14. Prohibition on use of synthetic netting. To minimize the risk of wildlife entrapment, Permittee shall not use any erosion control 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.
15. All refuse shall be contained in wildlife proof storage containers, at all times, and disposed of at an authorized waste management facility.
16. Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and be allowed to leave the work site unharmed.
17. The use of anticoagulant rodenticide is prohibited.
18. 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.
19. All components of project shall be developed, operated, and maintained in conformance with the Project Description, the approved Site Plan, the Cultivation & Operations Plan, 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.
20. 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.
21. 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.

22. 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.
23. 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.
24. 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).
25. Maintain enrollment in Tier 1, or 2 certification with State Water Resource Control Board (SWRCB) 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.
26. Comply with the terms and conditions of any applicable Lake and Stream Alteration Permit (SAA 1600-2019-0559-R1 and all subsequent agreements) obtained from the California Department of Fish and Wildlife (CDFW).
27. The applicant shall keep documentation from a licensed off-site processing service, to be furnished during annual inspections.
28. 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.
29. 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).
30. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.
31. Pay all applicable application, review for conformance with conditions and annual inspection fees.

32. 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.
33. The master log books maintained by the applicant to track production and sales shall be maintained for inspection by the County.
34. 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

35. Pursuant to the MCRSA, 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."
36. 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).
37. 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.
38. 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.
39. 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
40. Term of Commercial Cannabis Activity Conditional Use Permit & Special Permits. Any Commercial Cannabis Cultivation CUP or 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.
41. 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 Conditional Use 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.
42. 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.

43. 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.
44. 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.
45. 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 314-55.4.11(a) of the CMMLUO, 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 #8 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.

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 and the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and the lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided.

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

4. The applicant shall not have water trucked to the site for cannabis irrigation, unless approval has been received from the Planning Director for an “emergency” situation, and is on file prior to hauled water being supplied to the site.

Exhibit B

Cultivation Operations Plan

Exhibit C

Site Plan

